



BUSINESS PAPER

LOCAL PLANNING PANEL MEETING

**Wednesday 28 April 2021
at 6:30pm**



TABLE OF CONTENTS

GENERAL BUSINESS

Local Planning Panel

Item 1	LPP4/21 DA/258/2020 - Demolition of Existing Structures, Torrens Title Subdivision of One Lot into Two and Erection of Two Dwellings - 76 New Line Road, Cherrybrook	1
Item 2	LPP6/21 DA/558/2020 - Section 8.2 - Alterations and Additions to an Industrial Unit Comprising the Installation of a 60sqm Mezzanine Level - 20/35 Sefton Road, Thornleigh.....	43
Item 3	LPP8/21 DA/985/2020 - Demolition of structures, Torrens Title Subdivision of Two Allotments into Four Lots and construction of a Two-Storey Dwelling House - 99 and 99A Copeland Road, Beecroft	60

1 DA/258/2020 - DEMOLITION OF EXISTING STRUCTURES, TORRENS TITLE SUBDIVISION OF ONE LOT INTO TWO AND ERECTION OF TWO DWELLINGS - 76 NEW LINE ROAD, CHERRYBROOK

EXECUTIVE SUMMARY

DA No: DA/258/2020 (Lodged on 8 April 2020)

Description: Demolition of existing structures, Torrens title subdivision of one lot into two and erection of two dwellings as staged development

Property: Lot 185 DP 626632, No. 76 New Line Road, Cherrybrook

Applicant: AC Homes

Owner: Mr Yan Cui

Estimated Value: \$1,000,000

Ward: C Ward

- The application involves the demolition of existing structures, Torrens title subdivision of one lot into two and erection of two dwellings as staged development.
- The proposal does not comply with Clause 4.1 Minimum subdivision lot size of the *Hornsby Local Environmental Plan 2013* as a proposed allotment would have an area of 450.94m² which does not comply with the minimum lot size of 500m² as depicted on the Lot Size Map for the site. The development application seeks a variation of 9.8% of the development standard.
- A total of 22 submissions have been received in respect of the application.
- The application is required to be determined by the Hornsby Council Local Planning Panel as 10 or more unique submissions were received by way of objection.
- It is recommended that the application be approved as a staged development.

RECOMMENDATION

THAT the Hornsby Shire Council Local Planning Panel assume the concurrence of the Secretary of the Department of Planning, Industry and Environment pursuant to Clause 4.6 of the *Hornsby Local Environmental Plan 2013* and approve Development Application No. DA/258/2020 for the demolition of existing structures, Torrens title subdivision of one lot into two and erection of two dwellings as staged development at Lot 185 DP 626632, No. 76 New Line Road, Cherrybrook subject to the conditions of consent detailed in Schedule 1 of LPP Report No. LPP4/21.

APPLICATION HISTORY

On 8 March 2020 the applicant submitted DA/258/2020 to Council for the demolition of structures, the Torrens title subdivision of one allotment into two and the construction of two dwelling houses, one being on each newly created allotment.

The subdivision design consisted of the division of the allotment down the middle, perpendicular to the front boundary to create two side by side allotments. Access to these allotments was to be provided by a single point of access off New Line Road in the centre of the site, with a shared right of carriageway.

As the application was proposing access to the site via a classified road, the application was sent to Transport for New South Wales (TfNSW) for comment on 16 March 2020.

On 15 May 2020, TfNSW responded to Council with a request for additional information for swept paths to demonstrate that all vehicles could enter and leave the site in a forward direction and the relocation of a no stopping sign that would be impacted by the proposed crossover point.

Following the conclusion of Council's initial internal assessment of the application, a request for additional information was sent to the applicant on 27 July requesting further information in line with TfNSW requirements and the provision of an Arborist Report to assess the impact of the proposed crossover point on the remanent Blue Gum High Forest trees adjacent to the front boundary of the site.

On 8 September 2020 the applicant provided an amended subdivision design, which included turning areas in the front setback of the site to permit vehicles to enter and leave the site in a forward direction. This design further impacted upon trees in the front setback however the new design did satisfy the previous requirements of TfNSW.

On 14 October 2020 TfNSW indicated to Council that they had reviewed the amended development application and identified that the subject site has a right of carriageway linking the rear of the site to Greenoaks Avenue, through the medium density strata plan allotment at the rear of the site, known as "Falcon Hill" (SP 21015). On 15 October 2020, TfNSW provided a further response to Council which indicated the following:

It is noted that the subject site has an existing right of carriageway access to Greenoaks Avenue, through DP 635908 within the medium density strata plan allotment (SP21015) at the rear of the subject site. TfNSW advises that current practice is to limit the number of vehicular conflict points along the arterial road network to maintain network efficiency and road safety. This current practice is reflected in Section 6.2.1 of TfNSW current publication of the Guide to Traffic Generating Developments, which states 'access across the boundary with a major road is to be avoided wherever possible'.

Council forwarded the updated comment from TfNSW to the applicant, who in response provided a new subdivision plan that depicted access to proposed Lot 1 via the existing vehicular crossover on New Line Road, and access to Proposed Lot 2 via the right of carriageway at the rear of the site. Council forwarded the new plan to TfNSW for comment, who on 11 January 2021 indicated the following to Council:

As the subject site has an existing right of carriageway access to Greenoaks Avenue, through DP 635908 within the medium density strata plan allotment (SP21015) at the rear of the subject site, TfNSW would not grant concurrence to the vehicle access on the classified road under Section 138 of

Roads Act 1993. The proposed two new properties should be accessed via the existing right of carriageway to Greenoaks Avenue.

Council forwarded this information to the applicant. To address this issue, the applicant provided an amended subdivision design with all access to proposed Lots 1 and 2 to be provided via the right of carriageway at the rear of the site. Dwelling designs were subsequently amended to suit the new plans.

On 25 January 2021, TfNSW provided correspondence to Council that indicated that they had no objections to the development subject to recommended conditions of development consent.

SITE

The site comprises a single allotment of 1,073m² which has frontage to New Line Road, Cherrybrook and currently contains a single storey dwelling house. The site has a width of 21.9m and a depth of 55.9m.

The site experiences a fall of approximately 2m towards the front boundary with New Line Road.

The site is not bushfire or flood prone.

The site does not contain a heritage listed item, is not located in the vicinity of a heritage listed item and is not located within a heritage conservation area.

The property contains vegetation mapped as Blue Gum High Forest adjacent to the front boundary of the site. Blue Gum High Forest is listed as a Critically Endangered Ecological Community listed under the *Commonwealth Environmental Protection and Biodiversity Conservation Act 1999* and the *NSW Biodiversity Conservation Act 2016*.

The site is not burdened by any easements or restrictions. The site is benefitted by a right of carriageway, 4m wide, which burdens the adjoining allotment, known as SP 21015, Falcon Hill, a medium density strata community which adjoins the rear of the site. The right of carriageway provides access from the rear boundary of No. 76 New Line Road to the public road system at Greenoaks Avenue.

PROPOSAL

The development application proposes the demolition of all built structures on the site, the Torrens title subdivision and the construction of a dwelling house on each subdivided allotment as staged development.

Stage 1 of the development would be as follows:

Demolition of existing structures and the Torrens title subdivision of one allotment into two allotments, known as proposed Lot 1 and Lot 2.

Lot 1 would comprise a 564.73m² allotment, with a lot width of 10.97m² and a lot depth of 51.9m. Access to this allotment would be via the existing right of carriageway, 4m wide, which burdens the adjoining allotment, known as SP 21015. Additionally, a new right of way is proposed to burden proposed Lot 2 which would provide access to Lot 1.

Lot 2 would comprise an allotment of 508.59m² which would be burdened by a right of way (ROW) of 57.65m² at the rear of the site, which provides a net lot area of 450.94m². Lot 2 would have a lot width of 10.97m and a depth of 51.92m.

Stage 2 of the development application would be as follows:

Construction of 2x two storey dwelling houses, with one being on each allotment.

The dwelling houses have identical configurations, with a ground floor comprising of an office, media room, bathroom, laundry and open plan living/ dining/ kitchen with butler's pantry and rear facing alfresco. A detached double garage would be located in the portion of the allotments.

The first floor of the dwelling houses would comprise five bedrooms, one being a master bedroom with a walk-in robe and ensuite, a sitting area and a front and rear facing balcony.

A total of 5 trees would be removed to facilitate the development.

ASSESSMENT

The development application has been assessed having regard to the *Greater Sydney Region Plan - A Metropolis of Three Cities*, the *North District Plan* and the matters for consideration prescribed under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act). The following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Greater Sydney Region Plan - A Metropolis of Three Cities and North District Plan

The Greater Sydney Region Plan - A Metropolis of Three Cities has been prepared by the NSW State Government to guide land use planning decisions for the next 40 years (to 2056). The Plan sets a strategy and actions for accommodating Sydney's future population growth and identifies dwelling targets to ensure supply meets demand. The Plan also identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

The NSW Government will use the subregional planning process to define objectives and set goals for job creation, housing supply and choice in each subregion. Hornsby Shire has been grouped with Hunters Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Ryde, Northern Beaches and Willoughby to form the North District. The Greater Sydney Commission has released the North District Plan which includes priorities and actions for Northern District for the next 20 years. The identified challenge for Hornsby Shire will be to provide an additional 4,350 dwellings by 2021 with further strategic supply targets to be identified to deliver 97,000 additional dwellings in the North District by 2036.

The proposed development would be consistent with the *Greater Sydney Region Plan - A Metropolis of Three Cities* and the *North District Plan*, 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 Hornsby Local Environmental Plan 2013

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

2.1.1 Zoning of Land and Permissibility

The subject land is zoned R2 Low density residential under the *HLEP*. The objectives of the R2 zone are:

- *To provide for the housing needs of the community within a low-density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development is defined as ‘*subdivision*’ and ‘*dwelling house*’ and is permissible in the zone with Council’s consent.

2.1.2 Minimum Lot Size

Clause 4.1 of the *HLEP* provides that the minimum subdivided lot size is not to be less than the minimum size shown on the Lot Size Map in relation to that land. For the subject site, the minimum lot size is 500m².

Lot 1 would have an area of 564.73m² which is compliant with Clause 4.1. Lot 2 has an area 508.59m² which would be burdened by a right of way of 57.65m² at the rear of the site.

Clause 4.1(3A) provides that “*If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size.*” Lot 2 is considered to satisfy the criteria of an “other lot with an access handle” and consequently the portion of the lot burdened by the 57.65m² ROW is to be excluded from the calculation of the lot size. Consequently, Lot 2 would have an area of 450.94m² which does not comply with the minimum lot size for the site.

The applicant has provided a written request to vary the development standard under the provisions of Clause 4.6 of *HLEP*, which is discussed in detail in Section 2.1.4 below.

2.1.3 Height of Buildings

Clause 4.3 of the *HLEP* provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 8.5m. The proposal is compliant with this provision as the dwelling houses are 8.42m and 8.44m in height.

2.1.4 Exceptions to Development Standards

The application has been assessed against the requirements of Clause 4.6 of the *HLEP*. This clause provides flexibility in the application of the development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary, and it can be demonstrated that sufficient environmental planning grounds are present to justify contravening a development standard.

The proposal does not comply with Clause 4.1 Minimum Lot Size of the *HLEP* as Lot 2 being 508.59m² in size, would be burdened by a right of way of 57.65m² at the rear of the site, providing a net lot area of 450.94m². The size of Lot 2 would therefore be less than the minimum size shown on the Lot Size Map in relation to the land by 9.8%, which does not comply with the development standard.

The objective of Clause 4.1 Minimum subdivision lot size is as follows:

- To provide for the subdivision of land at a density that is appropriate for the site constraints, development potential and infrastructure capacity of the land.*

(b) *To ensure that lots are of a sufficient size to accommodate development.*

The applicant has made a submission in support of a variation to the development standard in accordance with Clause 4.6 of the *HLEP*. Clause 4.6 provides that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.*
- (b) *That there are sufficient environmental planning grounds to justify contravening the development standard.*

Council must be satisfied that the written request provided by the applicant under Clause 4.6 addresses both the unreasonable and unnecessary test and demonstrates sufficient environmental planning grounds to justify contravening the development standard. These matters are discussed below.

2.1.4.1 Unreasonable or Unnecessary

There are five common methods by which an applicant can demonstrate that compliance with a development standard is unreasonable or unnecessary in the circumstances of the development. Initially proposed for objections under clause 6 of *SEPP 1* in the decision of *Wehbe v Pittwater Council* [2007] NSWLEC 827 Pearson C summarised and applied these methods to written requests made under Clause 4.6 in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 [61-62]. These five methods are generally as follows:

- The objectives of the development standard are achieved notwithstanding non-compliance with the standard.
- The underlying objective or purpose is not relevant to the development.
- That the objective would be defeated or thwarted if compliance was required.
- That the development standard has been virtually abandoned or destroyed by the Council's own actions in departing from the standard.
- The zoning of the land is unreasonable or inappropriate.

It is not required to demonstrate that a development meets multiple methods as listed above, and the satisfaction of one can be adequate to demonstrate that the development standard is unreasonable or unnecessary.

The written request prepared by Ingham Planning provides justification for the undersized allotment by attempting to demonstrate that the objectives of the development standard, and the objectives of the zone are achieved notwithstanding non-compliance with the development standard.

The written request provides justification as follows:

"The subject land has an area 1,073.319m², which is sufficient for the creation of 2 dwellings, which is a complying density as envisaged in the subdivision development standard. Average lot size is another measure of density and in this case, average lot size (507.8m²) exceeds the minimum lot size of 500m².

The proposed subdivision responds to the constraints and opportunities of the site. The primary constraint is the desirability of removing the existing vehicular access to a sub-arterial road (New Line Road). The primary opportunity is the existence of a right-of-way that enable alternative vehicular access from the rear of the site, avoiding the need to retain a vehicular access to New Line Road.

The optimal subdivision design to accommodate the proposed dwellings provides for Lot 1 to be marginally wider (550mm) than Lot 2, which when combined with restricting vehicular access to the existing ROW at the rear, requires provision of a 57.65m² ROW over proposed Lot 2. The ROW in favour of Lot 1 does not adversely impact on the functionality and amenity of Lot 2, as it is confined to the access driveway of Lot 2.

All necessary urban services and infrastructure are available to the subject land and can accommodate an increase in dwelling density from 1 dwelling to 2 dwellings on the subject land.”

Council considers that the applicant's written request sufficiently identifies that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

With respect to the objective of Clause 4.1(a) the subdivision design is dictated by three primary site constraints, being the prohibition by TfNSW of any vehicular access via the front of the site, the presence of significant vegetation at the front of the site and the width of the allotment.

The subdivision design provides for equal allotment widths, compliant setback distances to the proposed dwelling houses, avoidance of vehicular access via New Line Road and enhanced protection for significant trees in the front of the site. This comes at the expense of the imposition of the ROW over Lot 2. However, Lot 2 is not significantly constrained from the use of this ROW area, as it would be located over the driveway that directly connects from the rear boundary of Lot 2 to the garage that is proposed for the site. This portion of Lot 2 would be only used for vehicular manoeuvring and as such, there is no significant detriment to this allotment via the placement of the ROW over this portion of the site.

Further, whilst not directly connected to the demonstration of the achievements of the development standard, Council notes that in the specific circumstances of this case, the applicant attempted to provide numerous subdivision designs to avoid the creation of the undersized allotment, including subdivision designs that demonstrated access to all allotments via the New Line Road frontage, access to only Lot 1 via New Line Road, with access to Lot 2 via the rear ROC, allotments with irregular side boundaries that introduced side setback non-compliances and allotments with irregular ROW boundaries. None of the previous options provided by the applicant were considered acceptable when compared to the current proposal, despite the non-compliance with the allotment size.

Therefore, it is considered that the subdivision design currently before Council provides for the subdivision of land at a density that is appropriate for the site constraints, development potential and infrastructure capacity of the land.

With respect to Clause 4.1(b) of the *HLEP*, it is considered that the subdivided allotments are of a sufficient size to accommodate development, as evident via the proposed compliant dwelling house designs.

2.1.4.2 Environmental Planning Grounds

In addition to demonstrating that compliance is unreasonable or unnecessary, Clause 4.6(3)(b) of the *HLEP* requires that there are sufficient environmental planning grounds to justify contravening the development standard. In demonstrating that sufficient environmental planning grounds exist, it must

be demonstrated that the planning grounds are particular to the circumstances of the development on the subject site (summarised from *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 [60]).

In demonstrating the environmental planning grounds the written request states:

The minor numerical lot size non-compliance for Lot 2 results in no increase in environmental impact compared to an alternative subdivision design that provides for a complying lot size for both lots. The potential alternative options of reducing the width and area of proposed Lot 1 or changing vehicular access so that both dwellings share a vehicular access to New Line Road, to achieve a numerically compliant lot size would result in a poorer planning outcome.

The lot size non-compliance primarily arises from a technicality, whereby the ROW must be excluded from the calculation of lot size, even though the ROW for Lot 1 is wholly located over the vehicular access area of proposed Lot 2 and in no way reduces the amenity or functionality of proposed Lot 2. In such circumstances and where a better planning outcome is achieved, allowing a minor 9.81% variation in the minimum lot size control is justifiable on environmental planning grounds.

The consent authority must also be satisfied that the proposal meets the objectives of the standard and the objectives of the subject zone. As discussed above, the proposal meets the objectives of the minimum lot size standard and as detailed in the SEE and in this clause 4.6 submission, also meets the objectives of the R2 Low Density Residential Zone.

Council considers that the environmental planning grounds stated within the written request are sufficient with respect to Clause 4.6(3)(b) and that the stated grounds are specific to the proposed development and the circumstances of the development site. It is therefore considered that the written request adequately demonstrates compliance with the clause and is acceptable in this regard.

2.1.4.3 Public Interest and Clause 4.6(4)

Clause 4.6(4) states that development consent must not be granted for development that contravenes a development standard unless:

- (a) *The consent authority is satisfied that -*
 - (i) *The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *The concurrence of the Planning Secretary has been obtained.*

With regard to part (i), the written request is considered to adequately address the matter required to be demonstrated as outlined above.

With regard to part (ii), the proposed development is considered to be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

With regard to (b) the concurrence of the Planning Secretary has been obtained.

2.1.5 Earthworks

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

Council's assessment of the proposed works and excavation concludes that earthworks are limited in scope and associated with the creation of a level building platform. The proposed earthworks would have negligible impacts on adjoining properties, drainage patterns and soil stability of the locality subject to the recommended conditions of consent.

2.2 State Environmental Planning Policy No. 55 Remediation of Land

The policy provides guidelines for the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7 requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land.

Should the land be contaminated Council must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make the land suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

A review of Council's records indicate that the site has been historically used for residential purposes. It is not likely that the site has experienced any significant contamination, and further assessment under *SEPP 55* is not required.

2.3 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The application has been assessed against the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*. The proposal includes a BASIX Certificate for the proposed dwelling houses and is considered to be satisfactory.

2.4 State Environmental Planning Policy (Infrastructure) 2007

The application is subject to assessment under Clause 101(2) of the *State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)* given the proposal has a frontage to a classified road being New Line Road. The application was also referred to Transport for NSW (TfNSW) (formally NSW Roads and Maritimes Services) for comment.

Clause 101(2) of the *ISEPP* states:

- (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*
 - (a) *Where practicable, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) *The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *The design of the vehicular access to the land.*
 - (ii) *The emission of smoke or dust from the development.*
 - (iii) *The nature, volume or frequency of vehicles using the classified road to gain access to the land.*

- (c) *The development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

In regard to Clause 101(2)a of *ISEPP*, any vehicle access to the site from New Line Road was prohibited by TfNSW and consequently, the application routes all vehicular access to the site via the rear right of carriageway, which connects the site to Greenoaks Place via the adjoining strata complex.

On 25 January 2021, TfNSW provided correspondence to Council that indicated that they had no objections to the current subdivision design subject to conditions of development consent.

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

2.5 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) commenced 25 August 2017 and aims to protect the biodiversity and amenity values of trees within non-rural areas of the state.

Part 3 of the *Vegetation SEPP* states that a development control plan may make a declaration in any manner relating to species, size, location and presence of vegetation. Accordingly, Part 1B.6.1 of the *Hornsby Development Control Plan 2013 (HDCP)* prescribes works that can be undertaken with or without consent to trees.

Part 3.1.1 of this report provides an assessment in accordance with Part 1B.6.1 of the *HDCP*.

2.6 Sydney Regional Environmental Policy No. 20 Hawkesbury-Nepean River

The site is located within the catchment of the Hawkesbury Nepean River. Part 2 of this Plan contains general planning considerations and strategies requiring Council to consider the impacts of development on water quality, aquaculture, recreation and tourism.

Subject to the implementation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would comply with the requirement of the Policy.

2.7 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.

2.8 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the *Hornsby Development Control Plan 2013 (HDCP)*. The following tables set out the proposal's compliance with the prescriptive requirements of the Plan:

ITEM 1

HDCP - Part 6 Subdivision			
Control	Proposal	Requirement	Complies
Site Area	1073m ²	N/A	N/A
Lot Area			
- Lot 1	564.73m ²	500m ²	Yes
- Lot 2 (excluding access)	450.94m ²	500m ²	No
Minimum Lot Width			
- Lot 1	10.97m	12m	No
- Lot 2	10.97m	12m	No

HDCP - Part 3.1 Dwelling Houses (Proposed House on Lot 1)			
Control	Proposal	Requirement	Complies
Site Area	564.73m ²	500m ²	Yes
Building Height	8.421m	8.5m	Yes
No. storeys	2	max. 2 + attic	Yes
Site Coverage	42%	max. 50%	Yes
Floor Area	368.1m ²	max. 330m ²	No
Setbacks			
- Front	9m	9m	Yes
- Northern Side			
Ground floor	900mm	900mm	Yes
First floor	1.5m	1.5m	Yes
- Southern Side			
Ground floor	900mm	900mm	Yes
First floor	1.5m	1.5m	Yes

- <i>Rear</i>			
<i>Ground floor</i>	5.71m	3m	Yes
<i>First floor</i>	19.4m	8m	Yes
Landscaped Area (% of Lot size)	25.6%	20%	Yes
Private Open Space			
- <i>minimum area</i>	>24m ²	24m ²	Yes
- <i>minimum dimension</i>	>3m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes
HDCP - Part 3.1 Dwelling Houses (Proposed House on Lot 2)			
Control	Proposal	Requirement	Complies
Site Area	450.94m ²	500m ²	No
Building Height	8.45m	8.5m	Yes
No. storeys	2	max. 2 + attic	Yes
Site Coverage	52%	max. 50%	No
Floor Area	368.1m ²	max. 380m ²	No
Setbacks			
- <i>Frontage</i>	9	9m	Yes
- <i>Northern Side</i>			
<i>Ground floor</i>	900m	900mm	Yes
<i>First floor</i>	1.5m	1.5m	Yes
- <i>Southern Side</i>			
<i>Ground floor</i>	900m	900mm	Yes
<i>First floor</i>	15m	1.5m	Yes
- <i>Rear</i>			
<i>Ground floor</i>	5.7m	3m	Yes
<i>First floor</i>	16m	8m	Yes
Landscaped Area (% of Lot size)	23%	20%	Yes
Private Open Space			
- <i>minimum area</i>	>24m ²	24m ²	Yes

- <i>minimum dimension</i>	>3m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes

As detailed in the above tables, the proposed development generally complies with the relevant numerical controls, with the exception of lot widths, floor area of the dwellings and site coverage on Lot 2. Non-compliances, as well as a discussion on relevant performance requirements in Part 1 of the HDCP are discussed in detail below.

2.8.1 Residential Lands Subdivision

Part 6.2 of the *HDCP* prescribes that subdivided lots should have a minimum lot size as depicted on the minimum Lot Size Map in the *HLEP*. and that “*In calculating the area of a lot resulting from subdivision of land, the area of any access way, right of carriageway or the like is to be excluded.*” As discussed in the body of this report, proposed Lot 2 does not meet the minimum lot size requirement for subdivision. However, as discussed within this report Lot 2 contains sufficient space to accommodate a dwelling house that is generally compliant with Council’s controls and no objections are raised to the undersized allotment, due to the unique circumstances of the site.

Part 6.2 Lot Shape of the *HDCP* further prescribes that “*lot design should maintain a minimum lot width that is compatible with the subdivision pattern, measured at the building line adjacent to the primary street frontage*”. The minimum lot width for the subject site is 12 metres. As measured at the front building line, the proposed allotments would have the following widths:

<i>Proposed Lot</i>	<i>Lot Width</i>
Lot 21	10.97m
Lot 22	10.97m

The proposed allotments are both 1.03m under the minimum prescribed allotment width. In support of this variation, it is noted that the applicant has demonstrated that the allotments are of a sufficient width to enable the construction of two storey dwelling houses, with compliant setback distances, open space and landscaping requirements. Further, as the allotments are wholly surrounded by medium density residential development, the undersized lot widths would have negligible impact on the surrounding subdivision pattern.

2.8.2 Scale

The desired outcome of Part 3.1.1 Scale of the *HDCP* is for “*Development with a height, bulk and scale that is compatible with a low-density residential environment*” with the prescriptive measure that dwelling houses on allotments of 450m² to 899m² are to have a maximum floor area of 330m² with a maximum site coverage of 50%. Both the proposed dwellings have floor areas exceeding the maximum area, with both dwellings having a floor area of 368.1m². In support of this variation, it is noted that Table 3.1.1(c): Maximum Floor Area of a Dwelling House and Ancillary Outbuildings of the *HDCP* prescribes a maximum floor area for a dwelling house of 330m² but also provides for a floor area of an outbuilding at 45m². When combined the maximum permissible floor area on an allotment is 375m². The garages for the dwellings are connected to the floor area of the dwellings by a glass breezeway but are distinctly separate structures at the rear of the site. It is considered that the separation is sufficient to identify them as outbuilding structures ancillary to the main dwelling houses. As the garages are under 45m² and the floor area of all structures is under 375m², the proposed floor area is consistent with the scale envisaged by Part 3.1.1 of the *HDCP* and is acceptable.

Additionally, Part 3.1.1 of the *HDCP* prescribes the site coverage of all buildings on a site is to be no greater than 50% for the proposed allotments. The site coverage of structures on Lot 2 would be equal to 52% which does not comply with the prescriptive measure. In support of this variation, it is noted that the only reason for the non-compliant site coverage is that Part 3.1.1 discounts the area used for any right of carriageway (or the like) from being calculated in the lot size. Consequently, the area of the proposed right of way is excluded from the site coverage calculation for Lot 2 which creates the numerical non-compliance of 52%. If the right of way is not excluded, a site coverage of 47% is applicable to the site.

The 52% site coverage for Lot 2 is considered to have negligible impact on the surrounding built environment, as is considered to be suitable for the site with built environment impacts largely consistent with a building of compliant 50% site coverage.

2.8.3 Sunlight Access

Submissions raised concerns regarding the overshadowing of adjoining development, with specific concerns raised regarding the overshadowing of communal property of the Falcon Hill strata development, which is located to the south of the site.

The applicant provided shadow diagrams for 9am, 12pm and 3pm on 21 June for assessment.

Part 3.1.5 Sunlight Access of the *HDCP* prescribes that *“On 22 June, 50 percent of the required principal private open space on any adjoining property should receive 3 hours of unobstructed sunlight access between 9am and 3pm.”*

The shadow diagrams prepared by the applicant indicate that over 50% of the adjoining communal open space would enjoy more than 3 hours sunlight access during the winter solstice, with shadow impacts generally being confined to the northern portion of the communal open space. Both the existing tennis court and swimming pool within the adjoining communal open space would similarly receive greater than 3 hours sunlight access to over 50% of their respective areas.

As such, the sunlight access is considered to be acceptable and consistent with the prescriptive measures of Part 3.1.5 Sunlight Access of the *HDCP*.

2.8.4 Privacy

The desired outcome of Part 3.1.6 Privacy of the *HDCP* is for *“Development that is designed to provide reasonable privacy to adjacent properties”* with the prescriptive measure that *“Decks and the like that need to be located more than 600mm above existing ground should not face a window of another habitable room, balcony or private open space of another dwelling located within 9 metres of the proposed deck unless appropriately screened and that “Living and entertaining areas of dwelling houses should be located on the ground floor and oriented towards the private open space of the dwelling house and not side boundaries”.*

The proposed dwellings would have elevated first floor balconies and first floor living areas. The first-floor balconies are depicted as having privacy screens on side facing elevations to minimise privacy impacts. Additionally, windows to the first floor sitting rooms would have sill heights of 1.8m above the finished floor levels, which would be suitably effective in minimising privacy impacts to adjoining properties. The northern elevation of the balcony on Proposed Lot 1 is not depicted as having a privacy screen. A condition of development consent is recommended in Schedule 1 of this report for the erection of a privacy screen on this elevation, as views would be possible from this balcony into adjoining properties adjacent to the northern boundary of proposed Lot 1.

To ensure that the privacy screens to be erected on side facing balconies are fit for purpose, a suitable condition of development consent is recommended in Schedule 1 of this report to set minimum standards for the screens.

Subject to these conditions, it is considered that a reasonable level of privacy would be established and maintained between the subject site and surrounding development.

2.8.5 Vehicular Access and Parking

The desired outcome of Part 3.1.7 Vehicle Access and Parking of the HDCP is for *“Development that provides sufficient and convenient parking for residents with vehicular access that is simple, safe and direct.”*

Vehicular access to the allotments would be via the existing right of carriageway, 4m wide, which burdens the adjoining allotment, known as SP 21015. Vehicles would utilise this access to reach the rear boundary of the subject site.

The access across the adjoining “Falcon Hill” strata development burdened by the ROW consists of a paved roadway surface. The roadway is sign posted as a “shared zone” with a speed limit of 10kmph. No pedestrian paths are present adjoining the roadway surface, with pedestrians utilising the roadway to move around the estate. Despite the lack of pedestrian paths adjoining the roadway, pedestrian thoroughfares are present within the Falcon Hill estate, two of particular note being the pedestrian access from the estate to New Line Road, which is located immediately adjacent to the southern side boundary of 76 New Line Road. Additionally, a pedestrian thoroughfare is located immediately adjoining the rear boundary of the subject site, which provides connectivity between the New Line Road access, and the northern portion of the Falcon Hill estate. These pathways converge within the right of carriageway benefitting No. 76 New Line Road.

Due to the high level of pedestrian activity within the Falcon Hill estate, Council indicated to the applicant that all construction traffic must be directed to the site via New Line Road. Routing construction traffic via the existing access point on New Line Road would also prevent damage to the privately-owned community roadway.

As the existing access would be closed upon completion of works, vehicular traffic would revert to utilising the right of carriageway upon completion. The applicant has supplied plans indicating that vehicular access to and from the site can be made in a forward direction to improve visibility. Additionally, due to the convergence of pedestrian thoroughfares at the rear of the site, the applicant has indicated a palisade style fence to allow for pedestrians to be sighted prior to entering the adjoining strata development.

Council considers that the proposed vehicular access to the site is simple, safe and direct, if vehicles enter and leave the site in a forward direction and sightlines are maintained through palisade style fencing. Conditions of consent to this effect are recommended in Schedule 1 of this report.

2.9 Section 7.11 Contributions Plans

Hornsby Shire Council Section 7.11 Contributions Plan 2020-2030 applies to the development as it would result in an additional allotment. Accordingly, the requirement for a monetary Section 7.11 contribution is recommended as a condition of consent.

3. ENVIRONMENTAL IMPACTS

Section 4.15(1)(b) of the Act requires Council to consider *“the 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 site contains vegetation mapped as Blue Gum High Forest adjacent to the front boundary of the site. Blue Gum High Forest is listed as a Critically Endangered Ecological Community listed under the *Commonwealth Environmental Protection and Biodiversity Conservation Act 1999* and the *NSW Biodiversity Conservation Act 2016*.

In addition to the Blue Gum High Forest, the site contains a number of planted exotic amenity trees. All trees within the vicinity of the subject site are described in the supplied Arboricultural Impact Assessment, (AIA) prepared by Tree Repairs, dated 28 January 2021. In total, 11 trees are located on, or in close proximity to the development site.

The proposed development would remove a total of 5 trees, of which 1 tree is dead. Of the trees to be removed, the dead tree and an Olive Tree, identified as Tree 1 in the supplied AIA are exempt trees under the provisions of Part 1B.6.1 of the HDCP.

The remaining 4 trees to be removed are all planted amenity trees exotic to the Hornsby Shire. Council's tree assessment raised no objections to the removal of these trees, as they are not native to the Hornsby area, and are assessed in the supplied AIA as being of low retention value.

Trees to be retained in the vicinity of the New Line Road frontage would require the installation of tree protection devices, and a project arborist would be required to ensure adequate monitoring and oversight during construction. Appropriate conditions of consent to this effect are recommended in Schedule 1 of this report. Subject to these conditions, the proposed development is considered to be acceptable.

3.1.2 Stormwater Management

Stormwater is to be disposed of via on site detention systems on both allotments and piped to Council's stormwater system in the New Line Road. No objections are raised to the proposed stormwater disposal system, subject to the utilisation of tree sensitive techniques for the installation of stormwater piping that intersects the Tree Protection Zones of trees to be retained at the front of the site.

3.2 Built Environment

3.2.1 Built Form

The built form is considered to be acceptable, and generally compliant with Council's development controls, as outlined within the body of this report.

3.3 Social Impacts

The residential development would improve housing choice in the locality by providing a range of house hold types. This is consistent with Council's Housing Strategy which identifies the need to provide a mix of housing options to meet future demographic needs in Hornsby Shire.

3.4 Economic Impacts

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

4. SITE SUITABILITY

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

The subject site is not identified as bushfire prone or flood prone land. The site is considered to be capable of accommodating the proposed development. The scale of the proposed development is consistent with the capability of the site and is considered acceptable.

5. PUBLIC PARTICIPATION


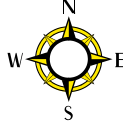
Section 4.15(1)(d) of the Act requires Council to consider *“any submissions made in accordance with this Act”*.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners initially between 1 and 14 May 2020 in accordance with the Hornsby Community Participation Plan. Following plan amendments that rerouted all vehicular access to the rear of the site, the development application was renotified to surrounding property owners between 3 and 18 December 2020. During the notification periods, Council received 22 submissions. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED		PROPERTY SUBJECT OF DEVELOPMENT	
-----------------------	------------------------	---	---------------------------------	---

Twenty-two submissions objected to the development, generally on the grounds that the development would result in:

- Unacceptable traffic on local streets.
- Tree Removal, including removal of Blue Gums.
- Overshadowing of Adjoining community facilities and properties.
- Privacy.
- Reduction in air flow to adjoining properties.
- Road widening impacting on allotments.
- Sewer Impacts.
- Pedestrian safety.
- Demolition Impacts.

- Construction Traffic utilising right of carriageway.
- Construction Impacts.
- Scale.
- Construction Damage to common property.
- Gates opening onto common property.
- Landscaping at rear of site adjacent to driveway.
- Use of Visitor Parking within Falcon Hill development.

Of the 22 submissions received, 9 were in the form of a proforma letter and one submission included a petition with 27 signatories. In total, 13 unique submissions were received by Council during the notification periods.

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 Traffic

Submissions raised concerns regarding traffic impacts arising from the development both in the local road network, and within the internal roads of the adjoining Falcon Hill strata complex.

With respect to the local road system, the proposed development is considered to have negligible impact.

With respect to the Falcon Hill strata development, the introduction of two dwelling houses with access via the right of carriageway is considered to have a minor increase in traffic for the strata development. Further, it is noted that vehicles accessing No. 76 New Line Road are only required to utilise approximately 75m of internal roadway and can enter and exit the internal road system in a forward direction. The existing traffic control system, including the existing 10km/h speed limit and the identification of the internal roadway as a shared zone, is considered to be adequate to cater for the minor traffic generation associated with the future use of the dwelling houses.

5.1.2 Reduction of Air Flow to Adjoining Properties

A submission raised concerns that the development would reduce airflow to adjoining properties, creating mould / mildew issues.

The design of the dwelling houses is not considered to contribute to any reduction of airflow, as the buildings are placed at compliant setback distances from all boundaries.

5.1.3 Road Widening - New Line Road

Submissions raised concerns regarding the potential future road widening of New Line Road impacting on the properties. Concerns included that the allotments would become undersized by any future road widening.

Regarding this concern, TfNSW provided in their response to Council, dated 25 January 2021, the following with respect to road widening;

TfNSW advises that the property is located within an area under investigation for a proposed upgrade of New Line Road. The investigations have not yet advanced to the stage where options have been

defined and accordingly it is not possible at this date to identify if any part of the subject land will be required to accommodate this proposal.

Council's notes the advice of TfNSW however does not consider that the above advice should be taken into account when considering the current feasibility of the development, as the plans for the future road widening have not been progressed to a point that identifies any part of the allotments being involved.

In this regard, it is however noted that the development is located at a compliant front setback distance and no structures are located at the front of the site which may impact on future road widening.

5.1.4 Sewer Impacts

Submissions raised concerns that the development would impact on the existing sewerage system, which may be unfit for an additional dwelling. An appropriate condition of development consent, requiring separate approval by Sydney Water is recommended in Schedule 1 of this report, to ensure requirements relating to the disposal of sewerage are resolved to the satisfaction of Sydney Water.

5.1.5 Demolition and Construction Impacts

Submissions raised concerns regarding demolition and construction impacts, including noise, dust and construction traffic. Appropriate conditions of development consent are recommended in Schedule 1 of this report for the control of demolition impacts, hours of work, disposal of waste and the routing of all construction vehicles via the existing vehicular crossover on New Line Road. Conditions are also recommended for the preparation of a dilapidation report detailing the condition of adjoining common property adjacent to the rear boundary and southern side boundary.

5.1.6 Gates Opening to Common Property

Submissions raised concerns regarding two gates that were depicted as being within the rear fence. These gates would open onto the common property of the adjoining strata development, for which No. 76 New Line Road did not have any easements for access.

Council requested that the applicant remove these features, as they did not have sufficient permissions to create a pedestrian access over the adjoining land. In response, the applicant deleted the gates from the plans, and all access to the rear of the site is via the existing right of carriageway.

5.1.7 Landscaping at Rear of the Site

A submission raised concerns that no landscaped buffer is provided at the rear of the site, between the driveway access and the rear boundary. Landscaping was proposed by the submitter to screen the driveway access.

In this instance landscaping at the rear of the site is not supported, as it may restrict sight lines of pedestrians within the Falcon Hill complex, from vehicles leaving the subdivided allotments.

5.1.8 Use of Visitor Parking

Submissions raised concerns regarding the allotments utilising the visitor spaces within the adjoining Falcon Hill strata community. In response to these concerns, it is noted that the allotments have sufficient parking for two vehicles on each allotment, as required by the *HDCP*. No visitor parking is required and visitors to these allotments can legally park on the surrounding road network and access the allotments on foot via the front and rear boundaries.

5.2 Public Agencies

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

5.2.1 Transport for NSW

As outlined in the body of this report, the application was referred to TfNSW for non-integrated development concurrence, as the application originally proposed access to the site via a classified road.

On 25 January 2021, TfNSW provided correspondence to Council that indicated that they had no objections to the development subject to conditions of development consent.

These recommended conditions have been included as conditions of development consent within Schedule 1 of this report.

6. THE PUBLIC INTEREST

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

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

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

CONCLUSION

The application proposes the demolition of existing structures, Torrens title subdivision of one lot into two and erection of two dwellings as staged development.

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

Council received 22 submissions during the public notification period. The matters raised have been addressed in the body of the report.

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

The reasons for this decision are:

- The written request under Clause 4.6 of *Hornsby Local Environmental Plan 2013* to vary to the minimum allotment size is well founded. Strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify the variation to the development standard.
- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, solar access, tree and vegetation preservation, stormwater, vehicle 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.



RESPONSIBLE OFFICER

The officer responsible for the preparation of this report is Ben Jones

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

ROD PICKLES
Manager - Development Assessments
Planning and Compliance Division

Attachments:

1.  Locality Plan
2.  Subdivision & Architectural Plans

File Reference: DA/258/2020
Document Number: D08106531

SCHEDULE 1

CONDITIONS APPLICABLE TO BOTH STAGES

GENERAL CONDITIONS

The conditions of consent within this notice of determination have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the relevant legislation, planning instruments and Council policies affecting the land and does not disrupt the amenity of the neighbourhood or impact upon the environment.

Note: For the purpose of this consent, any reference to an Act, Regulation, Australian Standard or publication by a public authority shall be taken to mean the gazetted Act or Regulation or adopted Australian Standard or publication as in force on the date that the application for a construction certificate is made.

1. Approved Plans and Supporting Documentation

The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by Council and/or other conditions of this consent:

Approved Plans:

Plan No.	Plan Title	Drawn by	Dated	Council Reference
DA001. Rev. D	Subdivision Plan	AC Project Group	18/03/2021	
DA002. Rev. D	Demolish Plan	AC Project Group	18/03/2021	
DA003. Rev. D	Site Plan	AC Project Group	18/03/2021	
DA004. Rev. D	Ground Floor Plan	AC Project Group	18/03/2021	
DA005. Rev. D	First Floor Plan	AC Project Group	18/03/2021	
DA006. Rev. D	Roof Plan	AC Project Group	18/03/2021	
DA007. Rev. D	Lot 1 Side Elevation	AC Project Group	18/03/2021	
DA008. Rev. D	Lot 2 Side Elevation	AC Project Group	18/03/2021	
DA009. Rev. D	Front and Rear Elevation	AC Project Group	18/03/2021	

Plan No.	Plan Title	Drawn by	Dated	Council Reference
DA010. Rev. D	Section 1/2	AC Project Group	18/03/2021	
DA011. Rev. D	Section 2/2	AC Project Group	18/03/2021	
DA013. Rev. D	Erosion and Sediment Control Plan	AC Project Group	18/03/2021	
DA016. Rev. D	Swept Path	AC Project Group	18/03/2021	
DA017. Rev. D	Front Fence Plans	AC Project Group	18/03/2021	
DA018. Rev. D	Rear Fence Plans	AC Project Group	18/03/2021	
L/01	Proposed Landscape Plan	A Total Concept	23/03/21	
Sheet 1 of 2 Issue B	Drainage Concept Plan & Details	KD Stormwater	24.08.20	
Sheet 2 of 2 Issue B	OSD Catchment Plan	KD Stormwater	24.08.20	

Supporting Documentation:

Document Title	Prepared by	Dated	Council Reference
Demolition Plan & Construction Management Plan	Transport and Traffic Planning Associates	March 2021	D08132537
Arboricultural Impact Assessment	Tree Repairs	28/01/2021	D08106533
BASIX Certificate No. 1087147M_02	Chapman Environmental Services	16/12/2020	D08078026
Waste Management Plan	-	02/04/2020	D07897338

2. Appointment of a Project Arborist

- a) To ensure the trees that must be retained are protected, a project arborist with AQF Level 5 qualifications must be appointed to provide monitoring and supervision of the site throughout the construction period.
- b) Details of the appointed project arborist must be submitted to Council and the PCA with the application for the construction certificate.

3. Removal of Existing Trees

- a) This development consent permits the removal of trees numbered 1, 2, 3, 4 and 5 as identified in the Arboricultural Impact Assessment prepared by Tree repairs dated 28 January 2021.

- b) No consent is granted for the removal of any other trees.

Note: The removal of any other trees requires separate approval in accordance with the Tree and Vegetation Chapter 1B.6 Hornsby Development Control Plan 2013 (HDCP).

4. Installation of Tree Protection Fencing

- a) Tree protection fencing must be erected around trees numbered 6, 7, 8, 9, 10 and 11 as specified in the Arboricultural Impact Assessment prepared by Treerepairs dated 28 January 2021.
- b) Tree protection measures for the trees to be retained must have the protection measures for the ground, trunk and canopy installed in accordance with the relevant requirements of *Australian Standard AS4970-2009 Protection of trees on development sites* and the relevant recommendations contained within Part 8 and Part 9 of the Arboricultural Impact Assessment prepared by Treerepairs dated 28 January 2021.

5. Tree Protection Zone - Ground Protection

- a) All tree protection zones for the trees to be retained must have a layer of wood-chip mulch installed prior to works commencing.
- b) The wood-chip mulch must be maintained throughout the period of construction at a depth of between 150mm and 300mm, using material that complies with the relevant requirements of *Australian Standard AS4454 Composts, soil conditioners and mulches*.

6. Tree Protection Certification

To ensure that all tree protection measures are correctly installed, a certificate from the appointed project arborist must be submitted to the Principal Certifying Authority confirming compliance with the tree protection requirements of this consent.

7. Section 7.11 Development Contributions

- a) In accordance with Section 4.17(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 7.11 Development Contributions Plan 2020-2030*, the following monetary contributions must be paid to Council to cater for the increased demand for community infrastructure resulting from the development:

Description	Contribution (4)
Roads	\$1,994.75
Open Space and Recreation	\$12,975.30
Community Facilities	\$4,988.10

Plan Preparation and Administration	\$41.85
TOTAL	\$20,000

ITEM 1

being for 1 additional lot.

- b) The value of this contribution is current as at 7 April 2021. If the contribution is not paid within the financial quarter that this condition was generated, the contribution payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 7.11 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

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 applicable in this Development Consent Condition.

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

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

Council's 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.

8. Construction Certificate

- a) A Construction Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any construction works under this consent.

- b) A Subdivision Works Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any subdivision works under this consent.
- c) A separate Subdivision Works Certificate must be obtained from Council for all works within the public road reserve under S138 of the *Roads Act*.
- d) A separate Subdivision Works Certificate must be obtained from Council for all works within drainage easements vested in Council.
- e) The Construction Certificate / Subdivision Works Certificate plans must be consistent with the Development Consent plans.

ADDITIONAL CONDITIONS APPLICABLE TO STAGE 1 – SUBDIVISION OF ONE LOT INTO TWO

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

9. Utility Services

The applicant must submit written evidence of the following service provider requirements:

- a) *Ausgrid (formerly Energy Australia)* – a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.
- b) *Telstra* - a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.

10. Road Opening Permit

A road opening permit shall be obtained from the Council to permit a person to dig into Council assets, such as roads, footpaths and nature strips. The applicable fees for the restoration of any public asset by Council shall be at the applicant's full expense.

11. Internal Driveway/Vehicular Areas

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

- a) The driveway be a rigid pavement.
- b) The driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent per plan metre.
- c) The driveway pavement be a minimum 3 metres wide, 0.15 metres thick reinforced concrete with F72 steel reinforcing fabric and a 0.15 metre sub-base.
- d) Longitudinal sections along the access driveway shall be submitted to the principal certifying authority in accordance with the relevant sections of *AS 2890.1*. The maximum grade shall not exceed 1 in 4 (25%) with the maximum changes of grade of 1 in 8 (12.5%) for summit grades and 1 in 6.7 (15%) for sag grades. Any transition grades shall have a minimum length of 2 metres.

12. Dilapidation Report

- a) To ensure that the proposed works do not damage the common property of the adjoining strata development, known as known as SP 21015, Falcon Hill, a dilapidation report must be prepared by a suitably qualified consultant detailing the condition of the adjoining common property for a minimum distance of 10 metres as measured from the surveyed eastern and southern boundaries of No. 76 New Line Road.
- b) The report must be submitted to the principle certifying authority prior to the issue of a construction certificate.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS
--

13. Erection of Construction Sign

- a) A sign must be erected in a prominent position on any site on which any approved work is being carried out:
 - i) Showing the name, address and telephone number of the principal certifying authority for the work.
 - ii) Showing 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.
 - iii) Stating that unauthorised entry to the work site is prohibited.
- b) The sign is to be maintained while the approved work is being carried out and must be removed when the work has been completed.

14. Protection of Adjoining Areas

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.
- c) Involve the enclosure of a public place or part of a public place.
- d) Have been identified as requiring a temporary hoarding, fence or awning within the Council approved Construction Management Plan (CMP).

Note: Notwithstanding the above, Council's separate written approval is required prior to the erection of any structure or other obstruction on public land.

15. Toilet Facilities

- a) 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.
- b) Each toilet must:
 - i) Be a standard flushing toilet connected to a public sewer.

- ii) Be a temporary chemical closet approved under the *Local Government Act 1993*.
- iii) Have an on-site effluent disposal system approved under the *Local Government Act 1993*.

16. Erosion and Sediment Control

To protect the water quality of the downstream environment, erosion and sediment control measures must be provided and maintained throughout the construction period in accordance with the manual '*Soils and Construction 2004 (Bluebook)*', the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sediment control devices must remain in place until the site has been stabilised and revegetated.

Note: On the spot penalties may be issued for any non-compliance with this requirement without any further notification or warning.

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION

17. Construction Work Hours

All works on site, including demolition and earth works, must only occur between 7am and 5pm Monday to Saturday.

No work is to be undertaken on Sundays or public holidays.

18. Environmental Management

To prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction, the site must be managed in accordance with the publication '*Managing Urban Stormwater – Landcom (March 2004)*' and the *Protection of the Environment Operations Act 1997*.

19. Council Property

To ensure that the public reserve is kept in a clean, tidy and safe condition during construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath.

20. Construction Vehicle Access

- a) All construction vehicle access is to be via the existing New Line Road vehicular access, and in accordance with the requirements of the Demolition Plan & Construction Management Plan, prepared by Transport and Traffic Planning Associates, dated March 2021.
- b) No vehicular, equipment or personnel access to the site is permitted via the right of carriageway that burdens the adjoining strata development, known as SP 21015, Falcon Hill.

21. Demolition

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

- a) 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.
- b) 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*.
- c) 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.

22. Excavated Material

Any excavated material removed from the site must be classified by a suitably qualified person in accordance with the Department of Environment, Climate Change and Water NSW *Waste Classification Guidelines* and *Protection of the Environment Operations (Waste) Regulation 2014* prior to disposal to an approved waste management facility and be reported to the principal certifying authority prior to the issue of an Occupation Certificate.

23. Works Near Trees

- a) No consent is granted for any works within the Structural Root Zone of any trees to be retained.
- b) To maintain tree health and condition, the appointed project arborist must monitor and record any and all necessary remedial actions required for trees to be retained.
- c) The maintenance and monitoring of all tree protection techniques must be recorded by the appointed project arborist on a minimum of a monthly basis during the period of construction for submission with the application for the subdivision certificate.

24. Maintaining Tree Protections Zones

All Tree Protection Zones must be maintained in accordance with Section 4.6 requirements of *Australian Standard AS4970-2009 Protection of trees on development sites* and the conditions of this consent.

25. Works within Tree Protection Zones

- a) Any root pruning must be undertaken in accordance with the relevant requirements of *Australian Standard AS4970-2009 "Protection of trees on development sites"* - Sections 3.3.4, 4.5.4 and 4.5.5 and be supervised by the project arborist.
- b) Any and all necessary excavations within the Tree Protection Zone of trees to be retained, must be undertaken using construction techniques as prescribed in the *Australian Standard AS4970-2009 Protection of trees on development sites* - Section 4.5.5.

- c) To minimise the environmental impacts of the development within the Tree Protection Zone (TPZ) of trees to be retained:
 - i) The installation of any underground services which either enter or transect the designated TPZ must utilise sensitive methods such as directional drilling or manual excavation.
 - ii) The installation of any underground services must be inspected by the project arborist to monitor the likely impacts of the development on retained trees.
 - iii) For manual excavation of trenches the project arborist must advise on roots to be retained and must monitor the works. Manual excavation may include the use of pneumatic and hydraulic tools.
- d) The filling or stockpiling of building materials, the parking of vehicles or plant, the disposal of cement slurry, waste water or other contaminants must be located outside the tree protection zones as depicted on the Tree Protection Detail Plan contained with Appendix 16 of the Arboricultural Impact Assessment prepared by Treerepairs dated 28 January 2021.

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE
26. Sydney Water – s73 Certificate

A s73 Certificate must be obtained from *Sydney Water*.

27. Works Near Trees Certification

- a) The project arborist must submit to the principal certifying authority a certificate that the works have been carried out in compliance with the approved plans and specifications for tree protection.
- b) Certification should include a statement of site attendance, the condition of the retained trees, details of any deviations from the approved tree protection measures and their impacts on trees.

Note: Copies of monitoring documentation may be required by the PCA and/or Council.

28. 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 Council's Civil Works Specifications. Rectification works must be undertaken prior to the issue of an Occupation Certificate, or sooner, as directed by Council.

29. Preservation of Survey Marks

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

30. Creation of Easements

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

- a) A right of access over the access corridor.
- b) The creation of a “*Positive Covenant*” over proposed Lot 1 and 2 requiring that any future development is to provide an on-site detention system. The on-site detention system is to have a storage capacity of 5 cubic metres and a maximum discharge of 8 litres per second into Council’s drainage system in accordance with Council’s prescribed wording.

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

31. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed driveways, service conduits and inter-allotment drainage system. The plan(s) must be accompanied by a certificate from a registered surveyor certifying that all pipelines and associated structures lie wholly within any relevant easements. The location of all necessary service conduits provided to facilitate the proposed subdivision shall be clearly indicated on the works as executed plan.

32. Construction of Internal Driveway/Vehicular Areas

The driveway and parking areas on site must be constructed in accordance with *Australian Standards AS2890.1, AS2890.2, AS3727* and the requirements of condition No. 5 of this consent prior to issue of the Subdivision Certificate.

33. Maintenance of New Line Road Crossover

The existing vehicular crossover point to New Line Road must be maintained for future use during dwelling house construction.

34. Final Certification Arborist

- a) The Project supervisor must submit to the principal certifying authority all relevant certificates with the application for the subdivision certificate stating compliance with all the conditions of this consent.
- b) The Project arborist must submit to the principal certifying authority a certificate that all the completed works have been carried out in compliance with the approved plans and specifications for tree protection.
- c) Certification must include a statement of overall site attendance, the condition of the retained trees, details of any deviations from the approved tree protection measures and their impacts on trees.

Note: Copies of monitoring documentation may be required

ADDITIONAL CONDITIONS APPLICABLE TO STAGE 2 – CONSTRUCTION OF TWO DWELLING HOUSES

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

35. Subdivision – Lodgement of Plan

Evidence that a plan of subdivision creating the proposed lots has been lodged with the *NSW Department of Lands* must be submitted to Council or the Principal Certifying Authority.

36. Building Code of Australia

All approved building work must be carried out in accordance with the relevant requirements of the Building Code of Australia.

37. 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.

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

- a) In the case of work for which a principal contractor is required to be appointed:
 - i) The name and licence number of the principal contractor.
 - ii) The name of the insurer by which the work is insured under Part 6 of that Act.
- b) In the case of work to be done by an owner-builder:
 - i) The name of the owner-builder.
 - ii) 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 certifying authority for the development to which the work relates (not being Council) has given Council written notification of the updated information.

39. Sydney Water – Approval

This application must be submitted to *Sydney Water* for approval to determine whether the development would affect any *Sydney Water* infrastructure, and whether further requirements are to be met.

Note: Building plan approvals can be obtained online via Sydney Water Tap in™ through www.sydneywater.com.au under the Building and Development tab.

40. Stormwater Drainage – Dwellings

The stormwater drainage system for the development must be designed for an average recurrence interval (ARI) of 20 years and be gravity drained in accordance with the following requirements:

- a) The stormwater drainage system must be designed by a qualified hydraulic engineer.

- b) Connected directly to the kerb and gutter in New Line Road.
- c) Roof water must be connected to a rainwater tank in accordance with the approved BASIX Certificate requirements. The overflow from the rainwater tank shall be discharged to the on-site detention system.

41. On Site Stormwater Detention

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

- a) Have a capacity of not less than 5 cubic metres, and a maximum discharge (when full) of 8 litres per second.
- b) Have a surcharge/inspection grate located directly above the outlet.
- c) Discharge from the detention system must be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.
- d) Where above ground and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs must be installed.
- e) Not be constructed in a location that would impact upon the visual or recreational amenity of residents.

42. Internal Driveway/Vehicular Areas

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

- a) The driveway be a rigid pavement.
- b) The driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent per plan metre.

43. Dilapidation Report

- a) To ensure that the proposed works do not damage the common property of the adjoining strata development, known as known as SP 21015, Falcon Hill, a dilapidation report must be prepared by a suitably qualified consultant detailing the condition of the adjoining common property for a minimum distance of 10 metres as measured from the surveyed eastern and southern boundaries of No. 76 New Line Road.
- b) The report must be submitted to the principle certifying authority prior to the issue of a construction certificate.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

44. Erection of Construction Sign

- a) A sign must be erected in a prominent position on any site on which any approved work is being carried out:

- i) Showing the name, address and telephone number of the principal certifying authority for the work.
- ii) Showing 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.
- iii) Stating that unauthorised entry to the work site is prohibited.
- b) The sign is to be maintained while the approved work is being carried out and must be removed when the work has been completed.

45. Protection of Adjoining Areas

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.
- c) Involve the enclosure of a public place or part of a public place.
- d) Have been identified as requiring a temporary hoarding, fence or awning within the Council approved Construction Management Plan (CMP).

Note: Notwithstanding the above, Council's separate written approval is required prior to the erection of any structure or other obstruction on public land.

46. Toilet Facilities

- a) 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.
- b) Each toilet must:
 - i) Be a standard flushing toilet connected to a public sewer.
 - ii) Be a temporary chemical closet approved under the *Local Government Act 1993*.
 - iii) Have an on-site effluent disposal system approved under the *Local Government Act 1993*.

47. Erosion and Sediment Control

To protect the water quality of the downstream environment, erosion and sediment control measures must be provided and maintained throughout the construction period in accordance with the manual *'Soils and Construction 2004 (Bluebook)'*, the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sediment control devices must remain in place until the site has been stabilised and revegetated.

Note: On the spot penalties may be issued for any non-compliance with this requirement without any further notification or warning.

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION**ITEM 1****48. Construction Work Hours**

All works on site, including demolition and earth works, must only occur between 7am and 5pm Monday to Saturday.

No work is to be undertaken on Sundays or public holidays.

49. Environmental Management

To prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction, the site must be managed in accordance with the publication *'Managing Urban Stormwater – Landcom (March 2004)* and the *Protection of the Environment Operations Act 1997*.

50. Council Property

To ensure that the public reserve is kept in a clean, tidy and safe condition during construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath.

51. Survey Report

A report(s) must be prepared by a registered surveyor and submitted to the principal certifying authority:

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

52. Landfill

Landfill must be constructed in accordance with Council's *'Construction Specification 2005'* and the following requirements:

- a) Prior to fill material being imported to the site, a certificate shall be obtained from a suitably qualified environmental consultant confirming the fill wholly consists of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or material approved under the *Department of Environment and Climate Change's* general resource recovery exemption.
- b) A compaction certificate is to be obtained from a suitably qualified geotechnical engineer verifying that the specified compaction requirements have been met.
- c) These certificates must be included with the application for an occupation certificate.

53. Vehicular Crossing

A separate application under the *Local Government Act 1993* and the *Roads Act 1993* must be submitted to Council for the removal of the redundant crossing and replacement with integral kerb and gutter. The vehicular crossing must be constructed in accordance with

AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and the following requirements:

- a) Any redundant crossings must be replaced with integral kerb and gutter.
- b) The footway area must be restored by turfing.
- c) Be designed and constructed in accordance with the Transport for NSW requirements. The design shall be submitted to Transport for NSW for approval prior to submission of the vehicular crossing application.
- d) A Road Occupancy Licence obtained from the Transport Management Centre may be required during construction.
- e) Approval must be obtained from all relevant utility providers that all necessary conduits be provided and protected under the crossing.

Note: An application for a vehicular crossing can only be made to one of Council's Authorised Vehicular Crossing Contractors. You are advised to contact Council on 02 9847 6940 to obtain a list of contractors.

54. Excavated Material

Any excavated material removed from the site must be classified by a suitably qualified person in accordance with the Department of Environment, Climate Change and Water NSW *Waste Classification Guidelines* and *Protection of the Environment Operations (Waste) Regulation 2014* prior to disposal to an approved waste management facility and be reported to the principal certifying authority prior to the issue of an Occupation Certificate.

55. Works Near Trees

- a) No consent is granted for any works within the Structural Root Zone of any trees to be retained.
- b) To maintain tree health and condition, the appointed project arborist must monitor and record any and all necessary remedial actions required for trees to be retained.
- c) The maintenance and monitoring of all tree protection techniques must be recorded by the appointed project arborist on a minimum of a monthly basis during the period of construction for submission with the application for the subdivision certificate.

56. Maintaining Tree Protections Zones

All Tree Protection Zone must be maintained in accordance with Section 4.6 requirements of *Australian Standard AS4970-2009 Protection of trees on development sites* and the conditions of this consent.

57. Works within Tree Protection Zones

- a) Any root pruning must be undertaken in accordance with the relevant requirements of *Australian Standard AS4970-2009 Protection of trees on development sites* - Sections 3.3.4, 4.5.4 and 4.5.5 and be supervised by the project arborist.
- b) Any and all necessary excavations within the Tree Protection Zone of trees to be retained, must be undertaken using construction techniques as prescribed in the

Australian Standard AS4970-2009 Protection of trees on development sites - Section 4.5.5.

- c) To minimise the environmental impacts of the development within the Tree Protection Zone (TPZ) of trees to be retained:
 - i) The installation of any underground services which either enter or transect the designated TPZ must utilise sensitive methods such as directional drilling or manual excavation and all works must be supervised by the project arborist.
 - ii) The installation of any underground services must be inspected by the project arborist to monitor the likely impacts of the development on retained trees.
 - iii) For manual excavation of trenches the project arborist must advise on roots to be retained and must monitor the works. Manual excavation may include the use of pneumatic and hydraulic tools.
 - iv) The construction of the front fence must be undertaken utilising sensitive tree protection measures including the following;
 - a. Strip footing is not permitted.
 - b. The placement of supporting posts must be selected to avoid tree roots greater than 50mm and provide a minimum of 50mm clearance from living roots.
 - c. All post holes must be excavated utilising manual excavation methods and be supervised by the project arborist.
- d) The filling or stockpiling of building materials, the parking of vehicles or plant, the disposal of cement slurry, waste water or other contaminants must be located outside the tree protection zones as depicted on the Tree Protection Detail Plan contained with Appendix 16 of the Arboricultural Impact Assessment prepared by Treerepairs dated 28 January 2021.

58. Landscaping

To ensure adequate sightlines to pedestrians utilising the internal pedestrian thoroughfares of the adjoining strata development known as SP 21015, Falcon Hill, no landscaping is permitted to be erected behind the eastern façade of the garage located on Lot 2.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

59. Fulfilment of BASIX Commitments

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

60. 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 Council's Civil Works Specifications. Rectification works must be undertaken prior to the issue of an Occupation Certificate, or sooner, as directed by Council.

61. Creation of Easements

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

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

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

62. Construction of Internal Driveway/Vehicular Areas

The driveway and parking areas on site must be constructed in accordance with *Australian Standards AS2890.1, AS2890.2, AS3727* and the requirements of condition No. 36 of this consent prior to issue of the Occupation Certificate.

63. Final Certification Arborist

- a) The suitably qualified person holding a certificate III in Horticulture must submit to the principal certifying authority a Statement/or/Certification confirming all Tree Replacement Requirements have been completed in accordance with approved landscape plan.
- b) The Project supervisor must submit to the principal certifying authority all relevant certificates with the application for the occupation certificate stating compliance with all the conditions of this consent.
- c) The Project arborist must submit to the principal certifying authority a certificate that all the completed works have been carried out in compliance with the approved plans and specifications for tree protection.
- d) Certification must include a statement of overall site attendance, the condition of the retained trees, details of any deviations from the approved tree protection measures and their impacts on trees.

Note: Copies of monitoring documentation may be required

64. Installation of Privacy Devices

To establish and maintain a reasonable level of privacy for the adjoining premises, privacy screens erected on balcony elevations, as indicated in red on the approved plans must be in accordance with the following requirements;

- a) Privacy screens must be erected to a minimum of 1.7m above the finished floor level of the balconies.

- b) A privacy screen must be erected on the northern elevation of the first-floor rear facing balcony of the dwelling house proposed on Lot 1.
- c) The screens must have no individual openings more than 30mm wide and have a total of all openings less than 30% of the surface area of the screen.

OPERATIONAL CONDITIONS

65. Vehicular Access

To ensure adequate sightlines to pedestrians utilising the internal pedestrian thoroughfares of the adjoining strata development known as SP 21015, Falcon Hill:

- a) All vehicles must enter and exit the site in a forward direction.
- b) No landscaping is permitted to be erected behind the eastern façade of the garage located on Lot 2.

- END OF CONDITIONS -

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000*, other relevant legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

Environmental Planning and Assessment Act 1979 Requirements

The *Environmental Planning and Assessment Act 1979* requires:

- The issue of a construction certificate prior to the commencement of any works. Enquiries can be made to Council's Customer Services Branch on 9847 6760.
- A principal certifying authority to be nominated and Council notified of that appointment prior to the commencement of any works.
- Council to be given at least two days written notice prior to the commencement of any works.
- Mandatory inspections of nominated stages of the construction inspected.
- An occupation certificate to be issued before occupying any building or commencing the use of the land.

Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, a 'Long Service Levy' must be paid to the Long Service Payments Corporation or Hornsby Council.

Note: The rate of the Long Service Levy is 0.35% of the total cost of the work.

Note: Hornsby Council requires the payment of the Long Service Levy prior to the issue of a construction certificate.

Tree and Vegetation Preservation

Hornsby Development Control Plan 2013 Tree and Vegetation Preservation provisions have been developed under Council's authorities contained in *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* and the *Environmental Planning and Assessment Act 1979*.

In accordance with these provisions a person must not cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy the vegetation, lop or otherwise remove a substantial part of the trees or vegetation to which any such development control plan applies without the authority conferred by a development consent or a permit granted by Council.

Fines may be imposed for non-compliance with the *Hornsby Development Control Plan 2013*.

Note: A tree is defined as a long lived, woody perennial plant with one or relatively few main stems with the potential to grow to a height greater than three metres (3m). (HDGP 1B.6.1.c).

Covenants

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this consent. Applicants must rely on their own enquiries as to whether or not the building breaches any such covenant.

Subdivision Certificate Requirements

A subdivision certificate application is required to be lodged with Council containing the following information:

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

Note: Council will not issue a subdivision certificate until all conditions of the development consent have been completed.

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

Fees and Charges – Subdivision

All fees payable to Council as part of any construction, compliance or subdivision certificate or inspection associated with the development (including the registration of privately issued certificates) are required to be paid in full prior to the issue of the subdivision certificate. Any additional Council inspections beyond the scope of any compliance certificate required to verify compliance with the terms of this consent will be charged at the individual inspection rate nominated in Council's Fees and Charges Schedule.

Dial Before You Dig

Prior to commencing any works, the applicant is encouraged to contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au for free information on potential underground pipes and cables within the vicinity of the development site.

Telecommunications Act 1997 (Commonwealth)

If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

Asbestos Warning

Should asbestos or asbestos products be encountered during demolition or construction works, you are advised to seek advice and information prior to disturbing this material. It is recommended that a contractor holding an asbestos-handling permit (issued by *SafeWork NSW*) be engaged to manage the proper handling of this material. Further information regarding the safe handling and removal of asbestos can be found at:

www.environment.nsw.gov.au

www.adfa.org.au

www.safework.nsw.gov.au

Alternatively, telephone the *SafeWork NSW* on 13 10 50.

House Numbering

The house numbering for this subdivision shall be:

Lot	Street Number	Street Name	Street Type	Locality
Lot 1	76A	New Line	Road	Cherrybrook
Lot 2	76	New Line	Road	Cherrybrook

2 DA/558/2020 - SECTION 8.2 - ALTERATIONS AND ADDITIONS TO AN INDUSTRIAL UNIT COMPRISING THE INSTALLATION OF A 60SQM MEZZANINE LEVEL - 20/35 SEFTON ROAD, THORNLEIGH

EXECUTIVE SUMMARY

DA No: DA/558/2020 (S8.2 lodged 25 February 2021)

Description: Section 8.2 review for alterations and additions to an industrial unit comprising the installation of a 60m² mezzanine level

Property: Lot 20 SP 101715, No. 20/35 Sefton Road Thornleigh

Applicant: Doosh Investments P/L as Trustee for Kerley Family

Owner: Doosh Investments P/L

Estimated Value: \$21,428

Ward: B

- The original application was refused by the Hornsby Council Local Planning Panel on 28 October 2020.
- The applicant has submitted amended plans as part of the Section 8.2 review to include construction of a 60m² mezzanine floor at the rear of Unit No. 20 and an internal car parking space.
- A total of 3 unique submissions have been received in respect of the application.
- The application is required to be determined by the Hornsby Local Planning Panel as the panel determined the original application.
- It is recommended that the application be approved.

RECOMMENDATION

THAT the Hornsby Local Planning Panel approve the Section 8.2 review of Development Application No. DA/558/2020 for alterations and additions to an industrial unit comprising the installation of a 60m² mezzanine level at Lot 20 SP 101715, No. 20/35 Sefton Road Thornleigh.

BACKGROUND

The site was historically used for farming and agricultural purposes. Council records indicate industrial development has been occurring on the site from 1959.

On 19 December 2019, the Hornsby Local Planning Panel approved DA/510/2018 for the Torrens title subdivision of one lot into six as a staged development. The subject site, now known as No. 35 Sefton Road was created through this subdivision.

On 1 May 2019, the Hornsby Local Planning Panel approved DA/619/2018 for the construction of a one storey and two storey industrial building comprising 32 industrial units and 44 self-storage units, strata subdivision and landscaping. Council have subsequently approved two modifications to the development. The first involved the deletion of internal waste storage areas and the second included alterations to Unit No. 32 comprising an additional 4 car parking spaces and larger mezzanine level. Condition No. 57 of the consent applies to the subject unit which states.

57. Use of Premises

- a) *Light Industrial Unit Nos. 1 to 32 approved under this consent shall be used for 'light industry' purposes and not for any other purpose without Council's separate written consent.*

On 8 November 2019, Council approved DA/756/2019 for alterations and additions to the approved development of DA/619/2018 comprising internal mezzanine levels in 42 of the 44 self-storage units, and internal mezzanine levels in the industrial units numbered 10, 12, 15 and 16.

On 28 October 2020, The Hornsby Local Planning Panel approved DA/744/2020 for the construction of a 40m² mezzanine storage area to Unit No. 30/35 Sefton Road.

On 28 October 2020, The Hornsby Local Planning Panel refused DA/558/2020 for alterations and additions to an industrial unit comprising the installation of a 58m² mezzanine level at Unit No. 20/35 Sefton Road for the following reasons:

1. *In accordance with Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposal does not comply with the desired outcomes or the prescriptive measures of the Hornsby Development Control Plan 2013 in respect to Part 1C.2.1 Transport and Parking as the development does not provide for a sufficient number of car parking spaces.*
2. *In accordance with Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the development would not be in the public interest as the proposal is contrary to the local planning controls and would create an undesirable precedence of car parking deficit in the locality.*

On 25 February 2021, the subject Section 8.2 review was lodged to review the refusal of DA/558/2020.

On 4 March 2021, DA/213/2021 was lodged for alterations and additions to Unit No. 26/35 Sefton Road. The application proposes internal alterations to the layout of the existing unit including a 64.7m² mezzanine and is currently under assessment.

SITE

The 7,831m² site is located on the southern side of Sefton Road Thornleigh and is irregular in shape.

The site comprises a one storey and two storey industrial building comprising 32 industrial units and 44 self-storage units. 66 car spaces are provided within the complex.

Vehicle access to the site is from Sefton Road via a shared driveway with. No. 35D and 35E Sefton Road.

The site is surrounded by a mixture of land uses with industrial to the east and north, medium density residential to the west and low density residential to the south.

The subject unit, No. 20 is located on the ground floor of the upper level and is situated within the centre of the site. The unit has a gross floor area of 81m² (as per the title) and is allocated 1 external car parking space and a dedicated loading area designed for a medium rigid vehicle.

Unit No. 20 is currently being used as a warehouse or distribution premises for camping goods.

8.2 REVIEW PROPOSAL

The Section 8.2 review proposes the construction of a 60m² mezzanine floor, staircase and handrails at the rear of Unit No. 20. The mezzanine would provide 3m of height clearance below and a 2.5-2.7m above. The application also proposes an additional internal car space measuring 2.4 x 5.4m.

The Statement of Environmental Effects (SEE) submitted with the application notes the unit would be used for warehouse or distribution and storage and states the following about the future use of the unit and the proposed mezzanine level:

- *The mezzanine floor is to be used for storage space only and will not increase staff levels. Staff operating from the premises will be 1-2 staff only.*
- *Hours of operation will be 8am to 5pm Monday to Friday. Saturday 9am to 4pm. Sunday Closed.*
- *Plant and machinery to be installed will be a hand operated walkie stacker forklift and some low-rise storage racks up to a max of 2.4m high.*
- *Type, size and quantity of goods being stored and transported are – canvas tents, gazebos and accessories (up to 200 units and equivalent of a 20' container of space or 26 cubic metres), nonmotorized caravans and trailers (up to 4 units at a time) and caravan accessories (up to 6 pallets of equivalent space).*
- *There may occasionally be 1-2 9kg refillable gas cylinders held on the property to go with caravans, but this will be infrequent. These gas cylinders will be empty. Other than this there will be no other dangerous goods or hazardous processes.*
- *Imported goods will be delivered to site occasionally (the equivalent of approx. 1 x 20' container per month). The containers will be hand unloaded on site on the hard stand area directly outside the roller door of the warehouse unit 20 with the use of a walkie stacker forklift and the container will be removed from site on the same day within approx. 2 hours of delivery.*
- *Additional truck deliveries may occur during business hours for delivery of locally sourced goods outlined above for up to 4 pallets at any one time.*
- *Courier trucks will visit the site (up to approximately 3-4 times per week) for the collection of client orders from the warehouse. The occasional client may visit the site to collect orders instead of being freighted to them.*

ASSESSMENT

The development application has been assessed having regard to the *Greater Sydney Region Plan – A Metropolis of Three Cities*, the *North District Plan* and the matters for consideration prescribed under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act). The following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Greater Sydney Region Plan - A Metropolis of Three Cities and North District Plan

ASSESSMENT

The development application has been assessed having regard to the *Greater Sydney Region Plan – A Metropolis of Three Cities*, the *North District Plan* and the matters for consideration prescribed under Section 4.15 of the Act. The following issues have been identified for further consideration.

2. STRATEGIC CONTEXT

2.1 Greater Sydney Region Plan - A Metropolis of Three Cities and North District Plan

A Metropolis of Three Cities – the Greater Sydney Region Plan has been prepared by the NSW State Government to guide land use planning decisions for the next 40 years (to 2056). The *North District Plan* is a guide for implementing *A Metropolis of Three Cities - the Greater Sydney Region Plan* at a District level and is a bridge between regional and local planning.

The plans set strategy and actions for accommodating Sydney's future population growth and identifies key targets such as dwelling numbers, infrastructure planning, liability, sustainability and productivity. An important vision of the strategy involves managing and maintaining industrial land close to centres and transport in order to ensure critical services are available to support businesses and residents.

Part 5 of the *Metropolis of Three Cities* relates to "Productivity" and a key objective is to ensure industrial and urban services land is planned, retained and managed. It defines a light industry as a "wide range of business that service other business and populations. Include warehousing, freight and logistics, construction and building supplies, and domestic storage". The strategy notes that light industry should be located on mixed lot sizes depending on the sizes and needs of the business as well as being located close to surrounding residential and commercial community they directly serve.

The construction of the mezzanine level and car parking space is consistent with *A Metropolis of Three Cities* and the *North District Plan*, by enabling further development of land that would serve a wide range of uses to support a growing population.

3. 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".

3.1 Environmental Planning and Assessment Act 1979 - Section 8.2

Section 8.2 of the *Environmental Planning and Assessment Act 1979* (the Act) permits an applicant to request a review of a determination by a Council or Local Planning Panel within 12 months for applications determined within the prescribed period 25 March 2020 and ending on 25 March 2022 of the original determination date. Section 8.4 of the Act allows the consent authority to change the original determination.

In addressing the reasons for refusal outlined in the background section of this report, the applicant has submitted a revised ground floor plan showing an internal car parking space. An assessment of the amended proposal is provided below.

3.2 Hornsby Local Environmental Plan 2013

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

3.2.1 Zoning of Land and Permissibility

The subject land is zoned IN1 General Industrial under the *HLEP*. The objectives of the IN1 zone are:

- *To provide a wide range of industrial and warehouse land uses.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of industry on other land uses.*
- *To support and protect industrial land for industrial uses.*
- *To permit other land uses that provide facilities or services to meet the day-to-day needs of workers in the area.*

The application acknowledges that the proposed mezzanine level is for storage ancillary to a “warehouse or distribution centre”. The *HLEP* provides the following definition for the land use:

Warehouse or distribution centre means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made, and includes local distribution premises.

A warehouse or distribution centre is permitted with consent within the IN1 zone. The proposed use is considered to be consistent with objectives of the zone as it would provide for a warehouse land use.

3.2.2 Height of Buildings

Clause 4.3 of the *HLEP* provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 10.5m. The proposal would not increase the height of the existing building and no further assessment is required in this regard.

3.2.3 Floor Space Ratio

In accordance with Clause 4.4 of the *HLEP*, the maximum floor space ratio (FSR) for the site is 1:1.

The original 1 and 2 storey industrial development was approved by the Hornsby Local Planning Panel with an overall FSR of 0.686:1 (DA/619/2018).

The application was modified under DA/619/2018/B with an increase in floor area of 31m². The floor area was further increased under DA/756/2019 with an additional 1,222m². DA/744/2020 was approved with an additional 40m². Additionally, DA/213/2021 proposes an additional 64.7m² of floor area to Unit No. 26.

The subject proposal would add an additional 47m² of gross floor area (mezzanine level minus the internal car parking space), resulting in a total FSR of 0.86:1 which is compliant with the *HLEP* development standard.

3.2.4 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire. The site does not include a heritage item and is not located in a heritage conservation area.

Accordingly, no further assessment regarding heritage is necessary.

3.2.5 Earthworks

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

No earthworks are proposed as part of this development and no further assessment is required in this regard.

3.3 State Environmental Planning Policy No 55 Remediation of Land

State Environmental Planning Policy No. 55 (SEPP 55) requires that Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated or requires remediation for the proposed use.

In accordance with the Conditions of Consent of DA/510/2018 and DA/619/2018 a site audit statement has been submitted for the site stating the land is suitable for industrial and commercial use. Accordingly, no further assessment is required under *SEPP 55*.

3.4 Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River

The site is located within the catchment of the Hawkesbury Nepean River. Part 2 of this Plan contains general planning considerations and strategies requiring Council to consider the impacts of development on water quality, aquaculture, recreation and tourism.

As the proposal involves internal modifications only, no assessment is required under the plan.

3.5 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.

3.6 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the *Hornsby Development Control Plan 2013 (HDCP)*. The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

Hornsby Development Control Plan 2013			
Control	Proposal	Requirement	Compliance
Site Area	7,831m ²	N/A	N/A
Internal Gross Floor Area	128m ²	N/A	N/A
Floor Space Ratio	0.86:1	1:1	Yes
Car Parking	2 spaces	2 spaces	Yes

As detailed in the above table, the proposed development would comply with the prescriptive requirements within the *HDCP*. A brief discussion on compliance with relevant desired outcomes is provided below.

3.6.1 Vehicle Access and Parking

3.6.1.1 Car Parking

Unit No. 20 has 1 dedicated external car space and a gross floor area (GFA) of 81m². The unit has a gross leasable floor area (GLFA) of 73m² excluding the bathroom and kitchenette.

The *HDCP* has a parking requirement of 1 space per 100m² of GLFA for an industrial development further than 800m from a train station.

The proposal would add an additional 60m² of GLFA with the mezzanine. This results in an overall GLFA of 133m². In accordance with the *HDCP*, car parking rates should be rounded up to the nearest number. This gives a requirement of 2 car parking spaces.

The S8.2 review includes an additional internal car parking space and the amended proposal is compliant in this regard. Conditions are recommended that the parking space be permanently line marked and not used for storage purposes.

3.6.1.2 Vehicle Access

The unit has access to a dedicated loading area outside of the roller doors. Council originally raised concerns with the positioning of the internal car space as it may restrict access to loading and unloading of goods. In response to this concern the applicant has provided the following statement:

- *Currently the business is run by one person and this will continue. It will be very rare that more than one car will be on site at any one time, so the outside car space will be used more often than the internal car space. The internal car space will often be a free and open space to move items inside to the rear of the unit via this thoroughfare. If any unloading were to occur, we would ensure this internal car space would be open to allow goods to be moved inside freely. I do not believe there will be any potential conflict caused. And with the mezzanine floor in place, it will mean more goods will be stored on the above floor providing more free space on the ground floor. This set up will in fact make it easier to load and unload than it is now without the mezzanine floor and internal car park.*
- *Most of the goods we have collected by couriers are tents, portable gazebos and camping accessories that are under 1m x 40cm x 40cm each (designed to fit into the boot of any car)*

so these items are easily moved around by hand or using a small trolley. Even with a car inside, there is still enough room to move these items around freely.

Given the use of the building is predominantly for the storage of smaller items, the internal car parking is considered appropriate to meet the required parking provision. Conditions of consent are recommended restricting the car space to staff use only to ensure that any visitors would park in the external space. Further, as the proposed use is for a warehouse or distribution centre and to ensure, and to restrict direct retail sales, a condition is recommended that no retail sales occur directly from the premises.

3.6.1.3 Traffic

With regard to traffic, Council utilises the Roads and Maritime Service's *Guide to Traffic Generating Developments 2002 (GtTGD)* to model traffic volume. The *GtTGD* provides a peak hour traffic generation of 1 trip per 100m² of GFA for factories/industry. Accordingly, traffic modelling predicts an increase in 0.47 vehicle trips per hour (VTPH) within the AM and PM peak. It is considered that the additional vehicle trips are unlikely to result in any significant increase in overall traffic.

3.6.2 Noise

The subject unit, No. 20 is located within the centre of the site and directly surrounded on all elevations by industrial development. The additional floor area would be contained within the existing concrete unit which is located approximately 75m from any residential property to the west and 40m from any residential property to the south. The additional floor area would not result in any direct unacceptable noise impacts.

With regard to noise from traffic, Council utilises the Roads and Maritime Service's *Guide to Traffic Generating Developments 2002 (GtTGD)* to model traffic volume. The *GtTGD* provides a peak hour traffic generation of 1 trip per 100m² of GFA for factories/industry. Accordingly, modelling predicts an increase in 0.47 vehicle trips per hour (VTPH) within the AM and PM peak. It is considered that the additional vehicle trip is unlikely to result in any significant changes to vehicle noise.

Conditions of consent are included that restrict hours of operation to those imposed under DA/619/2018 (Monday to Saturday: 7am-7pm, Sunday: no work). Council notes that these hours are the standard hours of operation for industrial land uses located adjoining residential areas under Schedule 8 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

4. ENVIRONMENTAL IMPACTS

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

4.1 Natural Environment

The application would have a neutral impact on the natural environment. No vegetation would be removed, and no additional stormwater overflow would occur given the works would be internal only.

4.2 Social Impacts

The proposal would have a negligible social impact on the local and wider community as the application is relatively minor in nature.

4.3 Economic Impacts

The proposal would have a negligible economic impact on the local and wider community as the application is relatively minor in nature.

5. SITE SUITABILITY

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

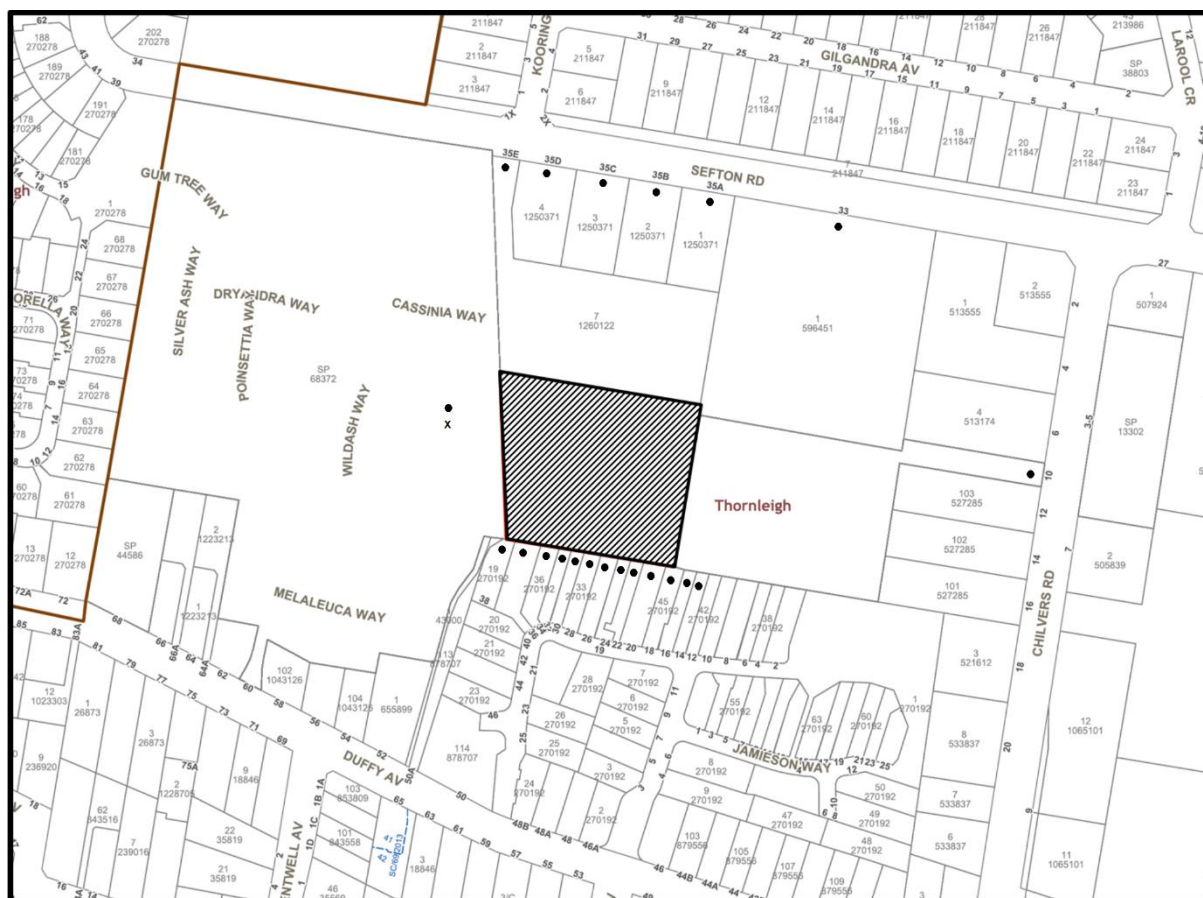
The subject site has not been identified as bushfire prone or flood prone land and is considered to be capable of accommodating industrial development.

6. PUBLIC PARTICIPATION


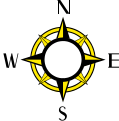
Section 4.15(1)(d) of the Act requires Council to consider *“any submissions made in accordance with this Act”*.

6.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 9 March 2021 and 1 April 2021 in accordance with the Hornsby Community Participation Plan. During this period, Council received 3 submissions. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED		PROPERTY SUBJECT OF DEVELOPMENT	
-----------------------	------------------------	---	---------------------------------	---

Two submissions objected to the development, generally on the following grounds:

6.1.1 Additional Noise

Submissions raise concerns that the approval of the mezzanine level would result in additional noise, specifically from the unloading of goods outside of the unit.

In response to this concern, the development was approved with a dedicated 6.4m by 3.5m unloading/loading area outside of the unit, in front of a roller door. Further, the conditions of DA/619/2018 do not restrict the unloading/loading of goods to internally only. As a result, the approval of the subject application would not alter how goods would be unload/loaded and therefore it is anticipated that it would have little impact to the unit's noise generation.

A further discussion regarding noise is addressed in Part 3.6.2 of this report.

6.1.2 Applicants Documentation

A submission raises concerns over comments made within the SEE regarding economic benefit and viability of the proposal and the floor space ratio calculation (FSR).

The comments in the SEE regarding economic benefit and economic viability represent the applicant's opinion and are not matters for consideration in Council's assessment of the application. The comments in the SEE are consistent with objectives (b) and (c) of the *Environmental Planning and Assessment Act 1979*, which includes economic objectives as follows:

- (b) *To facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment.*
- (c) *To promote the orderly and economic use and development of land.*

Regarding the calculation of the FSR, Council acknowledges that the number provided within the SEE is not accurate and does not account for DA/619/2018/B and 756/2019. Notwithstanding, Council calculates that the proposal is compliant with the *HLEP* floorspace ratio control as discussed in Part 3.2.3 of this report.

6.1.3 Work Health Safety and Car Parking

Submissions raise concern that the internal car space would have to be vacated if goods were to be unloaded.

Further, a submission raises a concern that approval of the internal car parking space would result in work health and safety concerns when unloading/ loading goods.

In response to this concern, the majority of cars in Australia vary in width from 1.75 to 1.95m. Consequently, even with a large vehicle parked within the space it is calculated that at least 1.5m of width would be provided to allow goods to be delivered internally through the existing delivery dock and roller door. As the unit would store camping materials, it is unlikely a car would need to be moved on a regular basis.

6.1.4 Dust

A submission raises concerns that the construction of the premises resulted in excess dust generation.

In response to this concern, the proposal involves internal works only and would not generate dust.

6.1.5 Property Values

A submission has been received raising concerns that the development would negatively impact property values of nearby properties.

In addressing this concern, Section 4.15 of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Local Environmental Plan 2013* does not require the consent authority to take into consideration the impact of a development on the value of nearby properties. Nonetheless, Council acknowledges that the proposed development complies with the development standards of the *HLEP*.

6.2 Public Agencies

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

7. THE PUBLIC INTEREST

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

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

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

CONCLUSION

The application proposes the construction of a 60m² mezzanine floor, staircase and handrails at the rear of Unit No. 20. The mezzanine would provide 3m of height clearance below and a 2.5-2.7m above. The application also proposes an additional internal car space measuring 2.4 x 5.4m.

The development 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 3 submissions during the public notification period. The matters raised have been addressed in the body of the report.

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

The reasons for this decision are:

- The proposed development complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013 including the required number of car parking spaces.

- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to traffic, parking, 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.





RESPONSIBLE OFFICER

The officer responsible for the preparation of this report is Stephen Dobbs

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

ROD PICKLES
Manager - Development Assessments
Planning and Compliance Division

Attachments:

1.  Locality Plan
2.  Strata Plan
3.  Photo of unit
4.  Plans

File Reference: DA/558/2020
Document Number: D08117542

Schedule 1**ITEM 2****GENERAL CONDITIONS**

The conditions of consent within this notice of determination have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the relevant legislation, planning instruments and Council policies affecting the land and does not disrupt the amenity of the neighbourhood or impact upon the environment.

Note: For the purpose of this consent, the term 'applicant' means any person who has the authority to act on or the benefit of the development consent.

Note: For the purpose of this consent, any reference to an Act, Regulation, Australian Standard or publication by a public authority shall be taken to mean the gazetted Act or Regulation, or adopted Australian Standard or publication as in force on the date that the application for a construction certificate is made.

1. Approved Plans and Supporting Documentation

The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by Council and/or other conditions of this consent:

Approved Plans

Plan No.	Plan Title	Drawn by	Dated	Council Reference
18123-MK133-B	Lot 6 - Lower Level Industrial Unit 20	SBA Architects	26/07/2018	
N/A	Proposed Internal Care Park Space (DA/558/2020)	SBA Architects	27/07/2018	
20804 – SK01	Proposed Mezzanine Floor	Henry&Hymas	30/06/2020	
DM-021 GA-0A	Perspective View	Adex Group	26/06/2020	
DM-021 GA-01	Framing Plan	Adex Group	26/06/2020	
DM-021 GA-02	Section & Elevation	Adex Group	26/06/2020	

Supporting Documents

Document Title	Prepared by	Dated	Council Reference
Engineers Certification 20804-S1/gn	Henry&Hymas	30/06/2020	D07955399

2. Construction Certificate

- a) A Construction Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any construction works under this consent.
- b) The Construction Certificate plans must be consistent with the Development Consent plans.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**3. Building Code of Australia**

All approved building work must be carried out in accordance with the relevant requirements of the Building Code of Australia.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS**4. Erection of Construction Sign**

- a) A sign must be erected in a prominent position on any site on which any approved work is being carried out:
 - i) Showing the name, address and telephone number of the principal certifying authority for the work.
 - ii) Showing 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.
 - iii) Stating that unauthorised entry to the work site is prohibited.
- b) The sign is to be maintained while the approved work is being carried out and must be removed when the work has been completed.

5. Protection of Adjoining Areas

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.
- c) Involve the enclosure of a public place or part of a public place.

Note: Notwithstanding the above, Council's separate written approval is required prior to the erection of any structure or other obstruction on public land.

6. Toilet Facilities

- a) 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.
- b) Each toilet must:
 - i) Be a standard flushing toilet connected to a public sewer.
 - ii) Be a temporary chemical closet approved under the *Local Government Act 1993*.
 - iii) Have an on-site effluent disposal system approved under the *Local Government Act 1993*.

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION

7. Construction Work Hours

All works on site, including demolition and earth works, must only occur between 7am and 5pm Monday to Saturday.

No work is to be undertaken on Sundays or public holidays.

8. Council Property

To ensure that the public reserve is kept in a clean, tidy and safe condition during construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath.

9. Environmental Management

To prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction, the site must be managed in accordance with the publication *'Managing Urban Stormwater – Landcom (March 2004)* and the *Protection of the Environment Operations Act 1997*.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**10. Damage to Council Assets**

To protect public property and infrastructure, any damage caused to Council's assets as a result of the construction or demolition of the development must be rectified by the applicant in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions). Rectification works must be undertaken prior to the issue of an Occupation Certificate, or sooner, as directed by Council.

11. Car Parking and Deliveries

All car parking must be constructed and operated in accordance with *Australian Standard AS Australian Standard AS2890.2 - 2002 – Off Street Commercial* and the following requirements:

- a) The internal parking areas must be line marked and noted for staff parking only.

OPERATIONAL CONDITIONS**12. Use of Premises**

- a) The development approved under this consent shall be used for a warehouse or distribution centre and not for any other purpose without Council's separate written consent.
- b) No retail sales are to occur directly from the premises.
- c) The internal car parking space must be used for staff parking only.
- d) The mezzanine floor storage area approved under this consent must not be subject to a sublease.

13. Hours of Operation

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

Monday to Saturday	7am to 7pm
Sunday & Public Holidays	No work

14. Noise

All noise generated by the proposed development must be attenuated to prevent levels of noise being emitted to adjacent premises which possess tonal, beating and similar characteristics or which exceeds background noise levels by more than 5dB(A).

- END OF CONDITIONS -

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000*, other relevant legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires:

- The issue of a construction certificate prior to the commencement of any works. Enquiries can be made to Council's Customer Services Branch on 9847 6760.
- A principal certifying authority to be nominated and Council notified of that appointment prior to the commencement of any works.
- Council to be given at least two days written notice prior to the commencement of any works.
- Mandatory inspections of nominated stages of the construction inspected.
- An occupation certificate to be issued before occupying any building or commencing the use of the land.

Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, a 'Long Service Levy' must be paid to the Long Service Payments Corporation or Hornsby Council.

Note: The rate of the Long Service Levy is 0.35% of the total cost of the work.

Note: Hornsby Council requires the payment of the Long Service Levy prior to the issue of a construction certificate.

Tree and Vegetation Preservation

Hornsby Development Control Plan 2013 Tree and Vegetation Preservation provisions have been developed under Council's authorities contained in *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* and the *Environmental Planning and Assessment Act 1979*.

In accordance with these provisions a person must not cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy the vegetation, lop or otherwise remove a substantial part of the trees or vegetation to which any such development control plan applies without the authority conferred by a development consent or a permit granted by Council.

Fines may be imposed for non-compliance with the *Hornsby Development Control Plan 2013*.

Note: A tree is defined as a long lived, woody perennial plant with one or relatively few main stems with the potential to grow to a height greater than three metres (3m). (HDCP 1B.6.1.c).

Disability Discrimination Act

The applicant's attention is drawn to the existence of the *Disability Discrimination Act 1992*. A construction certificate is required to be obtained for the proposed building/s, which will provide consideration under the *Building Code of Australia*, however, the development may not comply with the requirements of the *Disability Discrimination Act 1992*. This is the sole responsibility of the applicant.

Covenants

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this consent. Applicants must rely on their own enquiries as to whether or not the building breaches any such covenant.

Advertising Signage – Separate DA Required

This consent does not permit the erection or display of any advertising signs. Most advertising signs or structures require development consent. Applicants should make separate enquiries with Council prior to erecting or displaying any advertising signage.

3 DA/985/2020 - DEMOLITION OF STRUCTURES, TORRENS TITLE SUBDIVISION OF TWO ALLOTMENTS INTO FOUR LOTS AND CONSTRUCTION OF A TWO-STOREY DWELLING HOUSE - 99 AND 99A COPELAND ROAD, BEECROFT

EXECUTIVE SUMMARY

DA No:	DA/985/2020 (Lodged on 16 November 2020)
Description:	Demolition of structures, Torrens title subdivision of two allotments into four and construction of a two-storey dwelling house
Property:	Lots 1 and 2 DP 444486, Nos. 99 and 99A Copeland Road Beecroft
Applicant:	Frobat Pty Ltd
Owner:	Peter Timothy James Nicholson Philip Theodore Nicholson
Estimated Value:	\$1,060,967
Ward:	C

- The application involves the demolition of structures, the Torrens title subdivision of two allotments into four lots and construction of a two-storey dwelling house.
- The proposal generally complies with the *Hornsby Local Environmental Plan 2013* and the *Hornsby Development Control Plan 2013*.
- A total of 22 submissions have been received in respect of the application.
- The application is required to be determined by the Hornsby Council Local Planning Panel as 10 or more unique submissions were received by way of objection.
- It is recommended that the application be approved.

RECOMMENDATION

THAT Development Application No. DA/985/2020 for demolition of structures, Torrens title subdivision of two allotments into four lots and construction of a dwelling house at Lots 1 and 2 DP 44486, Nos. 99 and 99A Copeland Road Beecroft be approved subject to the conditions of consent detailed in Schedule 1 of LPP Report No. LPP8/21.

BACKGROUND

Site History

The dwelling house located on the subject site ("Strathallan") was constructed during the course of 1909.

On 21 August 1958, Council approved the subdivision of the allotment into two lots, resulting in the creation of existing Lots 1 and 2 DP 444486.

Application History

On 7 December 2020, Council requested additional information in the form of a Landscape Plan to address Council's vegetation offset requirements and revisions to the Civil Engineering Plans to maintain the health of tree Nos. 33 and 34.

Between 14 and 16 December 2020, Council received the requested Civil Engineering Plans (Revision 5) and Landscape Plan (December 2020).

On 11 January 2021, Council requested revisions to the submitted plans to address concerns with regard to heritage conservation, tree preservation and the potential use of the basement floor level of the proposed dwelling house as a separate domicile.

On 4 February 2021, Council received the requested Architectural Plans (Issue K), Subdivision Plan (Issue I) and Civil Engineering Plans (Revision 6).

On 5 February 2021, Council requested amendments to the plans to ensure consistency amongst the submitted Subdivision, Landscape and Architectural Plans. Between 17 and 23 February 2021, Council received the requested Subdivision, Landscape and Architectural Plans.

On 25 March 2021, Council requested revisions to the submitted Landscape Plan to ensure the retention of the smaller scale vegetation behind the front sandstone wall to complement the proposed plantings within the front setback. On 1 April 2021, Council received the requested Landscape Plan (Revision C).

On 29 March 2021, Council requested amendments to the submitted Arboricultural Impact Assessment to include the provision of a Tree Protection Plan. On 6 April 2021, Council received the requested Arboricultural Impact Assessment.

SITE

The site is legally described as Lot 1 DP 444486 (No. 99 Copeland Road) and Lot 2 DP 444486 (No. 99A Copeland Road). The allotments have a combined area of 3,277.9m² and a total frontage of 37.19m to Copeland Road.

Lot 1 is a square shaped lot with an area of 707.2m², a frontage of 26.52m and a depth of 26.82m. Lot 1 is vacant of any improvements and contains dense vegetation including large canopy trees.

Lot 2 is a rectangular shaped lot with an area of 2,570.7m², a frontage of 10.67m and a depth of 144.52m. Lot 2 contains a part 1 and 2 storey dwelling house, an in-ground swimming pool and a detached carport to the rear north-eastern corner. The perimeter of Lot 2 contains a mixture of small to large trees and shrubs.

The two allotments function as a single residential property utilising a driveway adjacent to the eastern side boundary. A low sandstone boundary fence extends along the frontage of both allotments.

The site experiences a fall of 11m to the front south-eastern corner, representing an average gradient of 12%.

The adjoining sites to the east at Nos. 101 and 101A Copeland Road contain 1 and 2 storey dwelling houses. It is noted that No. 101 Copeland Road also contains a swimming pool within the rear setback. The adjoining site to the west at Nos. 95-97 Copeland Road contains a Seniors Living development in the form of 2 x two-storey residential flat buildings with basement car parking and a row of single and two storey villas including 2 detached dwellings and 4 semi-detached dwellings. The adjoining sites to the rear at Nos. 43A and 45C Hannah Street each contain two storey dwelling houses.

Copeland Road is a local street with a low-density streetscape largely comprising a mixture of single and two storey residential buildings. Within close proximity to the subject site along Copeland Road includes a childcare centre, the Beecroft Bowling and Recreation Club to the east and Pennant Hills Golf Course to the west.

The site is located approximately 800m west of Beecroft Station and 600m to Beecroft Public School.

The site is not bushfire or flood prone.

The site is not burdened by any easements or restrictions.

The site does not contain a heritage listed item, however the site is located within the C2 Beecroft – Cheltenham Heritage Conservation Area.

PROPOSAL

The application proposes the demolition of structures, Torrens title subdivision of two allotments into four lots and construction of a two-storey dwelling house. The development is proposed to be staged as follows:

Stage 1

- The removal of 25 trees from existing Lots 1 and 2 DP 444486.
- The demolition of the dwelling house, in-ground swimming pool and carport located on existing Lot 2 DP 444486.
- A boundary adjustment between existing Lots 1 and 2 DP 444486 as indicated on the 'Proposed Plan of Subdivision - Stage 1' resulting in the creation of proposed Lot 11 (901.4m² ex. ROW) and Lot 12 (2,254m²).
- The construction of a variable width Right of Carriageway over proposed Lot 11.

Stage 2

- The construction of a two-storey dwelling house on proposed Lot 11. The lower ground floor of the dwelling house would comprise a double garage, four bedrooms, a rumpus, storage room and internal stairs. The ground floor level would contain a kitchen, bedroom with ensuite, water closet, laundry, kitchen, living room, alfresco and a plunge pool.

Stage 3

- Torrens title subdivision of proposed Lot 12 into three lots as indicated on the 'Proposed Plan of Subdivision - Stage 2' resulting in the creation of proposed Lot 121 (903.2m² ex. ROW), Lot 122 (600.1m² ex. ROW) and Lot 123 (600.3m² ex. ROW).

- The construction of a Right of Carriageway 4m wide and variable width over proposed Lots 121, 122 and 123.

To ensure the preservation of the heritage streetscape, the application seeks to retain the initial 9m of the existing concrete accessway adjacent to the front boundary, and the retention of the sandstone boundary fence, pedestrian entry and metal gate which extends along the Copeland Road frontage.

ASSESSMENT

The development application has been assessed having regard to the *Greater Sydney Region Plan – A Metropolis of Three Cities*, the *North District Plan* and the matters for consideration prescribed under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act). The following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Greater Sydney Region Plan - A Metropolis of Three Cities and North District Plan

The *Greater Sydney Region Plan - A Metropolis of Three Cities* has been prepared by the NSW State Government to guide land use planning decisions for the next 40 years (to 2056). The Plan sets a strategy and actions for accommodating Sydney's future population growth and identifies dwelling targets to ensure supply meets demand. The Plan also identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

The NSW Government will use the subregional planning process to define objectives and set goals for job creation, housing supply and choice in each subregion. Hornsby Shire has been grouped with Hunters Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Ryde, Northern Beaches and Willoughby to form the North District. The Greater Sydney Commission has released the North District Plan which includes priorities and actions for Northern District for the next 20 years. The identified challenge for Hornsby Shire will be to provide an additional 4,350 dwellings by 2021 with further strategic supply targets to be identified to deliver 97,000 additional dwellings in the North District by 2036.

The proposed development would be consistent with the *Greater Sydney Region Plan - A Metropolis of Three Cities* and the *North District Plan* by providing additional Torrens title allotments capable of accommodating future dwelling houses and 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 Hornsby Local Environmental Plan 2013

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

2.1.1 Zoning of Land and Permissibility

The site is zoned R2 Low density residential pursuant to the Land Use Table of the *HLEP*. The objectives of the R2 zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development is defined as a 'subdivision' and 'dwelling house' and is permissible in the zone with Council's consent. It is considered that the proposed development would provide for the growing housing needs of the community and meets the objectives of the R2 Low density residential zone.

2.1.2 Minimum Subdivision Lot Size

Clause 4.1 of the *HLEP* prescribes that the minimum subdivision lot size is not to be less than shown for the land on the Minimum Lot Size Map, which is 600m².

The proposed subdivision would result in proposed Lot 11 having an area of 901.4m² (ex. ROW), Lot 121 having an area of 903.2m² (ex. ROW), Lot 122 having an area of 600.1m² (ex. ROW) and Lot 123 having an area of 600.3m² (ex. ROW). The proposal complies with the minimum subdivision lot size development standard pursuant to Clause 4.1 of the *HLEP*.

2.1.3 Height of Buildings

Clause 4.3 of the *HLEP* provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 8.5m. The proposal achieves a maximum height of 7.85m and complies with this provision.

2.1.4 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire. The site does not contain a heritage listed item, however the site is located within the C2 Beecroft-Cheltenham Heritage Conservation Area (HCA) under Schedule 5 of the *HLEP*.

Submissions have been received from the community raising heritage conservation concerns, summarised as follows:

- The proposed demolition of the dwelling house, the subdivision of land and the reduction of curtilage and gardens would significantly impair the value of the HCA and streetscape.
- The existing dwelling house significantly contributes to the values of the HCA and its proposed demolition should be prevented.
- The property should be subdivided into 2 or 3 allotments rather than 4 lots to preserve its heritage value.

The application has been supported by a Heritage Impact Statement (HIS) prepared by Archnex Designs.

Council's heritage assessment raised concerns with the original submitted plans (Issue A) and requested the following amendments:

- That the front setback for the new dwelling be increased to enable a minimum 13m front setback and a compliant rear yard setback with private open space behind the building line for the proposed dwelling.

- That the materials of the new dwelling be amended from render to clean face brick.
- That the colour of external materials and finishes be amended to darker tones and be visually recessive in the streetscape.
- That the tile roof be amended to terracotta (or terracotta in appearance) in accordance with the HDCP guidelines and main roof material characteristic of the HCA.
- That the existing low stone front boundary wall fence be retained, including the pedestrian entry, metal gate, driveway, curved stone driveway entrance and pillars.
- That the location of the new passing bay be relocated behind the retained stone wall to maintain the existing visual appearance of the stone wall at the front of the site.
- That the accessway make use of coloured (dark, recessive colours) and/or textured concrete.
- That the retention of tree No. 5 be ensured with a passing bay constructed outside of its Structural Root Zone.

It is noted that the latest iteration of Architectural Plans (Issue D) have addressed the above concerns. Council's heritage assessment has been undertaken in consideration of the submitted HIS and the Architectural Plans as amended and is discussed below.

Demolition

The existing dwelling (*Strathallan*, built circa 1910) on the subject site is from the period required to be retained in the HCA. The HIS states that "*The stylistic integrity and intactness of "Strathallan" and its ability to demonstrate a "Federation Queen Anne" style house has been irretrievably lost.*" While retention of a characteristic and compatible dwelling is preferred in the HCA, the dwelling has been substantially altered and is not identified as being individually significant. In addition, the contribution of the dwelling to the street and HCA is minimal with low visibility in the streetscape due to a substantial setback and dense vegetation along the frontage. In the circumstances, the demolition of the existing dwelling is supported on heritage grounds.

Subdivision

The existence and creation of battle-axe allotments in the area is not uncommon in the streetscape and HCA. The subject site includes an existing battle-axe allotment (No. 99A Copeland Road) and a vacant allotment (No. 99 Copeland Road) created in 1958. The vacant lot has an uncharacteristic depth compared to allotments in the vicinity. The proposed lot sizes comply with the numerical requirements of the *HLEP* and HDCP and the proposed battle axe allotments would have minimal impact on the HCA, particularly given the retention of the sandstone wall and use of the initial 9m of the existing driveway as a Right of Way.

Proposed Dwelling House

The streetscape in the vicinity of the site and to the northern side contains two storey dwellings and older style single storey dwellings with large front setbacks and gardens. The proposed dwelling would not be single storey in appearance as preferred in the HCA. Notwithstanding, the streetscape scale is varied on the northern side and the proposed two storey dwelling would be articulated on the front elevation, have a hipped roof and garaging would be located on the side elevation, which would not be prominent in the streetscape. The provision of landscaping on the eastern boundary and retention of mature plants at the front of the site assists with reducing the visibility of the new dwelling in the streetscape. The submitted Landscape Plan indicates the planting of a stand of evergreen tick

bushes with an estimated 2.5m height at maturity along the eastern side boundary. The evergreen planting would reduce the visibility of the double garage in the streetscape.

Setbacks

The streetscape (northern side between Nos. 91 to 107 Copeland Road) is characterised by large setbacks and front gardens, including the subject sites. Adjoining older style properties also contain large front setbacks of 14m to 16m. The average setback in the streetscape is 13m on the northern side of Copeland Road (between Nos. 91 and 107 Copeland Road) including recent infill developments. The setback of the adjoining building to the east (No. 101A Copeland Road) is greater than 14m from the front boundary and the setback of the Seniors Living development to the west at No. 95-97 Copeland Road is 12.5m and 13.5m.

The architectural plans indicate a 13m setback of the proposed dwelling house from the front boundary. The proposed setback, whilst forward of the property to the east (No. 101A Copeland Road), would be similar to the recent development constructed at No. 95-97 Copeland Road. Landscaping between the properties to the east assists in reducing the impact to the streetscape.

The rear setback of the proposed dwelling house is consistent with the requirements of the HDCP and enables the private open space to be provided at the rear of the dwelling.

Materials and Finishes

The lower section of the proposed dwelling house is to be constructed of a medium-dark face brick which is consistent with the character of the HCA. The upper weatherboard portion of the dwelling would be of a 'medium' tone and is considered to be recessive in the streetscape. The tile roof is proposed to be terracotta in accordance with the HDCP guidelines and the main roof material characteristic of the HCA.

No heritage concerns are raised to the proposed materials and finishes of the brick walls and roof tiles. Notwithstanding, the provided Schedule of Finishes is generic and accordingly a condition has been recommended under Schedule 1 requiring that specific details be provided to Council for approval prior to issue of a Construction Certificate.

Tree Removal

The front garden significantly contributes to the streetscape character. The proposed retention of the street trees and the trees/shrubs overhanging the front sandstone fence is supported. The trees proposed to be removed are required to be replaced in accordance with the submitted Landscape Plan to compensate for removal of the trees and vegetation.

Landscaping

The retention of the stone wall on the front boundary, curved stone pedestrian entry and gate and curved 'wing' driveway wall and pillars as recommended in the HIS and proposed on the plans is supported and positively contributes to the streetscape and heritage significance of the HCA.

The Landscape Plan indicates substantial tree/ shrub replacement planting in the front yard (proposed Lot 11) and along the eastern side boundary adjacent to the proposed accessway. The replacement tree planting is supported and would complement the existing shrubs along the front boundary including a mature camellia and azaleas overhanging the stone wall, which positively contribute to the streetscape.

A condition has been recommended that any 1.8m high fencing proposed on the side boundaries is not to be forward of the (13m) building line to maintain the landscaped character of the site and streetscape.

Accessway / Car Parking

The proposed retention of the initial 9m of the driveway and vehicular street crossing in situ is supported and would positively contribute to maintaining the appearance of the site in the streetscape. The repositioning of the proposed passing bay away from the front boundary facilitates the retention of the curved stone entry and mature camellia tree (Tree No. 5).

The proposed cobblestone style finish for the driveway would be a sympathetic decorative material in the HCA.

Heritage Items in the Vicinity

The proposed development would have minimal impact on the items in the vicinity due to separation from the subject site.

2.1.5 Earthworks

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

The site experiences a fall of 11 metres to the front south-eastern corner, representing an average gradient of 12%.

Submissions have been received raising concerns that there would be extensive excavation to facilitate the proposed dwelling house, plunge pool and landscaping.

The development would require excavation of a maximum depth of 2.5m beneath the north-western corner of the proposed dwelling house and a maximum fill of 700mm at the south-eastern corner of the dwelling. Council's engineering assessment has concluded that the extent of the proposed excavation results from the proposed finished floor level of the lower ground floor level which has been set to correspond with the on-grade accessway. Given that the application seeks to retain the initial 9m of the existing driveway on heritage preservation grounds, the proposed accessway follows a predetermined level. It is considered that a reduction in excavation would likely result in an increase in floor levels and bulk and scale and would hinder vehicular access to the garage. Consequently, the proposed excavation is considered appropriate given the slope of the land and the predetermined accessway levels.

The proposed 700mm fill beneath the south-eastern corner of the dwelling is considered minor and suitable for the site. In addition, it is determined that the earthworks required to facilitate landscaping and construction of the plunge pool construction would be minor.

It is considered that the adjacent properties would be unaffected by the proposal with regard to stormwater flows and soil stability.

Conditions have been recommended requiring that all fill material be sourced from the subject site. In the instance that additional landfill is required, the fill must be Virgin Excavated Natural Material in accordance with *NSW Waste Classification Guidelines* and *Protection of the Environment Operations (Waste) Regulation 2014* and any additional excavated material removed from the site is to be in accordance with the Department of Environment, Climate Change and Water *NSW Waste Classification Guidelines*.

Subject to compliance with the recommended conditions, the proposal is considered acceptable in this regard.

2.1.6 Flood Planning

The site is not identified as a flood planning area on the 'Flood Planning Map' and further assessment under Clause 6.3 of the *HLEP* is not required.

2.2 State Environmental Planning Policy No. 55 Remediation of Land

The application has been assessed against the requirements of *State Environmental Planning Policy No. 55 Remediation of Land (SEPP 55)* under which consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use.

Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make the land suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

An examination of Council's records and aerial photography has determined that the site has been historically used for residential purposes. It is not likely that the site has experienced any significant contamination, and further assessment under *SEPP 55* is not required.

2.3 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The application has been assessed against the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*. The proposal includes a BASIX Certificate for the proposed development and is considered to be satisfactory.

2.4 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) aims to protect the biodiversity and amenity values of trees within non-rural areas of the state.

Part 3, Clause 9(2) of the *Vegetation SEPP* states that a Development Control Plan may make a declaration in any manner relating to species, size, location and presence of vegetation. Accordingly, Part 1B.6.1 of the Hornsby Development Control Plan 2013 (HDCP) prescribes works that can be undertaken with or without consent to trees and objectives for tree preservation.

The application has been assessed against the requirements of the *Vegetation SEPP* and it has been determined that the proposal would meet the objectives of the *Vegetation SEPP*. This matter is addressed further in Section 2.7.6 of this report.

2.5 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The application has been assessed against the requirements of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. This Policy provides general planning considerations and strategies to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained.

Subject to the implementation of installation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would have minimal potential to impact on the Sydney Harbour Catchment.

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 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the *Hornsby Development Control Plan 2013 (HDCP)*. The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

Subdivision of two lots into four + vacant lots

HDCP – Part 6 Subdivision			
Control	Proposal	Requirement	Complies
Site Area (combined)	3,277.9m ²	N/A	N/A
Lot Area			
- Lot 11	901.4m ² (ex. ROW)	600m ²	Yes
- Lot 121	903.2m ² (ex. ROW)	600m ²	Yes
- Lot 122	600.1m ² (ex. ROW)	600m ²	Yes
- Lot 123	600.3m ² (ex. ROW)	600m ²	Yes
Minimum Lot Width			
- Lot 11	37m	15m	Yes
- Lot 121	37m	15m	Yes
- Lot 122	20m	15m	Yes
- Lot 123	17m-24.6m	15m	Yes
Accessway Width			
- Carriageway Width	2.8m-4m	3m	No
- Landscaping Width	4.3m-9.3m	1m	Yes
Indicative Building Envelope			

ITEM 3

- Lot 121	200m ²	200m ²	Yes
- Lot 122	200m ²	200m ²	Yes
- Lot 123	200m ²	200m ²	Yes
Setbacks Lot 121			
- Front (east)	18.85m	900mm	Yes
- Side (north)	6.3m	900mm	Yes
- Side (south)	4.34m	900mm	Yes
- Rear	6.15m	5m	Yes
Setbacks Lot 122			
- Front	6.2m	900mm	Yes
- Side (east)	5m	900mm	Yes
- Side (west)	4.34m	900mm	Yes
- Rear	5m	5m	Yes
Setbacks Lot 123			
- Front	6.2m	900mm	Yes
- Side (east)	5.5m	900mm	Yes
- Side (west)	1.45m	900mm	Yes
- Rear	5m	5m	Yes
Landscaping			
- Lot 121	66%	40%	Yes
- Lot 122	67%	30%	Yes
- Lot 123	67%	30%	Yes
Open Space			
- Lot 121	>24m ²	min. 24m ²	Yes
- Lot 122	>24m ²	min. 24m ²	Yes
- Lot 123	>24m ²	min. 24m ²	Yes
Car Parking			
- Lot 121	2 spaces	2 spaces	Yes
- Lot 122	2 spaces	2 spaces	Yes
- Lot 123	2 spaces	2 spaces	Yes

Proposed dwelling house on proposed Lot 11

HDCP – Part 3.1 Dwelling Houses			
Control	Proposal	Requirement	Complies
Site Area	1,023m ²	N/A	N/A
Building Height	7.85m	8.5m	Yes
No. storeys	2 storeys	max. 2 + attic	Yes
Site Coverage	27%	40%	Yes
Floor Area	450m ²	430m ²	No
Setbacks			
- <i>Front</i>	13m	6m	Yes
- <i>Side (east)</i>			
<i>Lower Ground Floor</i>	10.75m	900mm	Yes
<i>Ground Floor</i>	10.75m	1.5m	Yes
- <i>Side (west)</i>			
<i>Lower Ground Floor</i>	3m	900mm	Yes
<i>Ground Floor</i>	2.4m – 3m	1.5m	Yes
- <i>Rear</i>	3m	3m	Yes
Landscaped Area (% of lot size)	60%	40%	Yes
Private Open Space			
- <i>minimum area</i>	>24m ²	min. 24m ²	Yes
- <i>minimum dimension</i>	>3m	min. 3m	Yes
Car Parking	4 spaces	2 spaces	Yes

As detailed in the above tables, the proposed development generally complies with the prescriptive requirements within the *HDCP*, with the exception of accessway width and the floor area of the proposed dwelling house. The matters of non-compliance are detailed below, as well as a brief discussion on compliance with relevant desired outcomes.

2.7.1 Lot Size and Shape

Submissions have been received raising concerns with regard to the subdivision design and layout, summarised as follows:

- The proposed allotments are of inadequate size given the site constraints.
- The accessway design is unorthodox and results in large areas of undevelopable land. It is argued that the two rear lots are undersized as a result.

- The slope of the land warrants larger lot sizes to address perceived privacy and amenity impacts.
- Proposed Lots 11 and 121 are inappropriately shaped given the design of the proposed accessway.
- The extensive front setback of the proposed dwelling house on Lot 11 results in a minimal rear setback and subsequent amenity issues at the rear of the dwelling.

The proposed subdivision would result in the proposed lots having a minimum lot size of 600m² and a minimum lot width of 15m, which complies with the minimum subdivision lot size and width requirements of the *HDCP*. The proposed subdivision design provides for regular shaped lots, with the exception of proposed Lot 123 which is dog-legged in shape.

Despite the unconventional location of the accessway and the presence of substantial vegetation on the site, the application has demonstrated compliance with relevant *HDCP* controls including setbacks, site coverage, landscaping, open space, heritage and car parking. It is noted that the proposed 13m front setback of the dwelling house is consistent with the adjoining properties and allows for a *HDCP* compliant 3m rear setback.

It is acknowledged that although the location of the proposed accessway is atypical and results in undevelopable land to its east, it is determined that its proposed location would facilitate the retention of significant vegetation along the eastern side boundary whilst providing suitable vehicular access to the proposed allotments. The extensive landscaping strip to the east of the accessway is deemed to be a positive component of the proposed subdivision.

Although there is provision within the *HDCP* to increase lot sizes in certain instances to accommodate site constraints including trees and steep topography, the application has demonstrated that the proposed dwelling house and future dwelling houses on the rear lots could be sited as proposed whilst avoiding the significant vegetation along the front and eastern side boundaries. With regard to topography, the site experiences an average gradient of 12% which is considered appropriate for residential development in accordance with the *HDCP* requirements and it is anticipated that no adverse amenity or privacy impacts would arise as a result.

The proposal is deemed acceptable with regard to the urban subdivision requirements of the *HDCP*.

2.7.2 Accessway Design

A submission has been received raising concerns that the location of the proposed passing bay would pose a safety risk to occupants of the proposed dwelling when entering and exiting the garage.

The *HDCP* stipulates that an accessway serving between 4-6 allotments should have a minimum width of 4m, comprising a 3m wide carriageway and a 1m wide landscape verge.

The application seeks to retain the initial 9m of the existing concrete accessway adjacent to the front boundary to maintain the heritage streetscape. The existing driveway has a carriageway width of 2.8m prior to its intersection with the proposed accessway, at which point the carriageway width splays to 4m. Council's engineering assessment raises no concerns to the minor *HDCP* non-compliance (2.8m wide carriageway), given that it facilitates the retention of the front sandstone wall and initial 9m of the driveway.

The original submitted plans indicated the provision of a passing bay abutting the front boundary resulting in the removal of 'medium' value Tree No. 5 (*Hinoki Cypress*) and the partial demolition of the front sandstone wall to facilitate its construction. The proposal as amended includes the provision

of a passing bay setback 12m from the front boundary and would enable the retention of the sandstone wall. It is acknowledged that while the relocated passing bay results in the removal of 3 'low' value trees (Tree Nos. 19, 21 and 22), it is considered that on balance the retention of the sandstone wall and Tree No. 5 is of overriding significance.

A common vehicle turning area has been provided to the rear of the subdivision in accordance with the requirements of the HDCP and *Australian Standard AS2890*.

In addressing the submission, Council's engineering assessment raises no concerns to the positioning of the passing bay with respect to vehicular and pedestrian safety. The 6.5m length of the passing bay enables a vehicle to be stationed within the passing bay whilst a vehicle exits the garage of the proposed dwelling house.

2.7.3 Scale

The HDCP stipulates that dwelling houses should have a maximum floor area of 430m² on sites with a lot size of 900m² or larger. The proposed dwelling house on proposed Lot 11 would have a floor area of 450m², contrary to the prescriptive requirement of the HDCP.

The overriding intent of the HDCP maximum floor area limit is to regulate the bulk and scale of any given residential development to ensure that it appropriately corresponds to its residential context and locality. As the application proposes excavation beneath the north-western corner of the proposed dwelling house, the dwelling would present as a single storey structure from the nearest property to the west at No. 95-97 Copeland Road (2-3 storey Seniors Living complex) and to proposed Lot 121 to the rear. In addition, the dwelling house would be significantly setback and largely obscured from adjacent properties to the east and across Copeland Road by virtue of the existing and proposed vegetation along the eastern and front boundaries.

The proposal demonstrates compliance with all other relevant HDCP controls and the additional 20m² of floor area would be negligible and indiscernible in comparison to a HDCP compliant floor area. The proposal meets the desired outcomes of the scale control of the HDCP and is considered acceptable in this regard.

2.7.4 Privacy

A submission has been received raising concerns that the proposed accessway and passing bay would pose a detrimental privacy and amenity impact to proposed Lots 11 and 121.

The proposed dwelling house on Lot 11 would be setback 13m from the front boundary, 10.75m to the eastern side boundary, 3m to the western side boundary and 3m to the rear boundary. Given the substantial setbacks and vegetation screening to the front and east, Council raises no privacy concerns in this regard.

As the application proposes excavation of up to 2.5m beneath the north-western corner of the proposed dwelling house, the upper floor level would be located approximately at existing ground level at the rear elevation and marginally above existing ground level at the western elevation. Consequently, the proposed dwelling would present as a single storey structure from the nearest property to the west at Nos. 95-97 Copeland Road and to proposed Lot 121 to the rear. The upper floor internal living spaces are orientated away from the western and rear boundaries and it is anticipated that the proposed dwelling would not pose a detrimental privacy impact to adjacent properties.

With respect to the proposed alfresco and plunge pool, it is anticipated that a standard 1.8m high boundary fence would provide adequate privacy between proposed Lots 11 and 121.

In addressing the submission, it is acknowledged that the accessway would be located within close proximity to the dwelling house on Lot 11 and a future dwelling house on proposed Lot 121. The accessway would achieve a substantial setback from the eastern side boundary to facilitate the retention of vegetation along the eastern boundary and to allow for the retention of the existing driveway on heritage conservation grounds. Although the accessway could be repositioned to be nearer to the eastern side boundary, on balance it is considered that the minor amenity impact to future dwellings on the subject site is acceptable given the overriding heritage and vegetation preservation benefits.

The proposal complies with the relevant privacy provisions of the *HDCP*.

2.7.5 Sunlight Access

The *HDCP* stipulates that on 22 June, 50 percent of the required principal private open space on any adjoining property should receive 3 hours of unobstructed sunlight access between 9am and 3pm.

The submitted Shadow Diagrams prepared by Brooks Projects Architects demonstrates that the overshadowing resulting from the proposed dwelling house would predominantly fall within the frontage of the subject site. The application has demonstrated that on 22 June all adjoining properties would receive a minimum of 3 hours of unobstructed sunlight access between 9am and 3pm.

The proposal complies with the prescriptive requirements of the *HDCP* with regard to sunlight access.

2.7.6 Tree and Vegetation Preservation

Submissions have been received from the public raising concerns with the proposed development on tree preservation grounds, summarised as follows:

- A significant number of mature trees would be removed from the site to facilitate the proposed development.
- The footprint of the proposed dwelling house on Lot 11 could be reduced to enable the retention of additional trees, particularly tree Nos. 12, 13, 41.
- Smaller scale vegetation (small trees and shrubs) have not been plotted on the Landscape Plan and would be removed in place of new replacement planting. The existing shrubs complement the retained sandstone fence and positively contribute to the streetscape.

The application has been supported by an amended Arboricultural Impact Assessment prepared by Russell Kingdom dated 1 April 2021.

Council's tree assessment has been undertaken with consideration of the submitted Arboricultural Impact Assessment. Council's assessment has determined that 15 trees on the subject site and nature strip are significant trees worthy of retention, identified as tree Nos. 1, 2, 3, 4, 5, 6, 8, 9, 20, 26, 27, 28, 32, 33 and 34.

2.7.6.1 Tree Removal

The application proposes the removal of 25 trees on the subject site to facilitate the proposed works and to accommodate future dwelling houses on the rear 3 allotments.

The trees proposed to be removed have been identified as tree Nos. 10 (*Chinese Hackberry*), 11 (*Chinese Hackberry*), 12 (*Tupelo*), 13 (*Pin Oak*), 14 (*Riberry*), 15 (*Sweet Gum*), 16 (*Deodar Cedar*),

17 (*Hinoki Cypress*), 18 (*Hinoki Cypress*), 19 (*Flowering Dogwood*), 21 (*Leighton's Green Conifer*), 22 (*Leighton's Green Conifer*), 23 (*Gordonia*), 24 (*Leighton's Green Conifer*), 25 (*Maidenhair Tree*), 29 (*Tree Rhododendron*), 30 (*Tree Rhododendron*), 31 (*Juniper*), 35 (*Jacaranda*), 36 (*Japanese Maple*), 37 (*Japanese Maple*), 38 (*Japanese Camellia*), 39 (*Jacaranda*), 40 (*Unknown species*) and 41 (*Camphor Laurel*).

Of the 25 trees proposed to be removed, the submitted Arboricultural Impact Assessment has assessed 22 trees as achieving a 'low' significance rating (tree Nos. 10, 11, 12, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 29, 30, 31, 35, 36, 37, 38, 40 and 41) with the remaining 3 trees achieving a 'medium' significance rating (tree Nos. 13, 14, and 39).

It is noted that the application does not seek to remove any of the 15 trees that have been assessed by Council as being significant trees worthy of retention, entirely located within the front and eastern boundary setbacks. The retention of these significant trees has been achieved through the sensible positioning of the accessway and the generous front setback of the proposed dwelling house.

Consideration has been given to a reduction in the footprint of the proposed dwelling house to facilitate additional tree retention (tree Nos. 12, 14, 15, 16, 17 and 18), however it is anticipated that any reduction would need to be significant to avoid a detrimental impact to the TPZ's of these trees. On balance, the removal of these 6 'low' to 'medium' value trees is considered acceptable to facilitate a development that is otherwise largely compliant with the *HDCP* built form requirements.

It is considered that the application has successfully avoided the removal of significant trees through sensible design and the proposed removal of the 25 'low' to 'medium' value trees is, on balance, deemed acceptable in this instance.

2.7.6.2 Landscaping

The submitted Landscape Plan (Revision C) indicates the planting of 86 shrubs/ trees with an expected mature height between 3m-25m within the front and eastern boundary setbacks. Of note, the following canopy trees are proposed to be planted on-site:

- 5 x *Rough Barked Apple* trees - located within the eastern side boundary setback with a mature height of 15m;
- 3 x *Sydney Blue Gum* trees - 1 is located within the frontage and the other 2 are within the eastern side boundary setback, with a mature height of 25m);
- 7 x *Turpentine* trees - 4 are located within the frontage and 3 within the eastern side boundary setback, with a mature height of 15m.

It is acknowledged that a total of 1,038 groundcovers, trees and shrubs are proposed to be planted in accordance with the submitted Landscape Plan.

Of significance, the Landscape Plan proposes to retain the vegetation located directly behind the front boundary sandstone wall which positively contributes to the existing streetscape.

2.7.6.3 Tree Retention

With regard to the impact of the development on trees to be retained on-site and adjacent sites, Council's tree assessment concurs with the conclusions of the submitted Arboricultural Impact Assessment that the trees proposed to be retained can be successfully retained through the utilisation of sensitive methods of construction as prescribed in *Australian Standard AS4970-2009*. Accordingly, conditions have been recommended under Schedule 1 requiring the appointment of a Project Arborist

to oversee the installation of tree protection fencing and the use of sensitive construction techniques for all works within the TPZ of retained trees.

It is noted that recent works on the adjacent site Nos. 95-97 Copeland Road has resulted in the removal of 6 trees along the common boundary within the adjacent site.

2.7.6.4 Dwelling Entitlement

Despite the application not posing a detrimental impact to any of the 15 trees that have been assessed by Council as being a significant tree worthy of retention, consideration has been given in Council's tree assessment to the deletion of proposed Lot 11 from the application to facilitate additional tree retention. It is anticipated that the deletion of the front lot would allow for the retention of an additional 9 'low' to 'medium' value trees (tree Nos. 10, 11, 12, 13, 14, 15, 16, 17 and 18).

Proposed Lot 11 follows a similar lot shape and an identical depth as the existing allotment it replaces (Lot 1 DP 444486). Existing Lot 1 DP 444486 is vacant of any improvements and contains dense vegetation including canopy trees. A future Development Application could be lodged for a dwelling house on the existing lot (Lot 1 DP 444486) without further subdivision. The existing allotment is zoned R2 Low density residential in the *HLEP* and there is a reasonable expectation that the site has an entitlement for a future dwelling house.

Accordingly, given the zoning there is little efficacy in the deletion of the front allotment from the proposal on tree preservation grounds.

2.7.6.5 Restriction as to User

To inform current and future owners that the areas of proposed Lots 11 and 121 identified as *Blue Gum Shale Forest* offset areas are to be protected from future development (front and eastern side setbacks), a condition has been recommended under Schedule 1 requiring the imposition of a Restriction as to User pursuant to Section 88B of the *Conveyancing Act 1919*.

2.7.7 Stormwater Management

Stormwater from each allotment is proposed to be drained via an inter-allotment stormwater drainage system beneath the proposed accessway to Council's drainage system along Copeland Road. Accordingly, the application proposes the creation of an inter-allotment drainage easement over each of the proposed lots pursuant to Section 88B of the *Conveyancing Act 1919*.

Council's stormwater management assessment raises no concerns to the proposed method of stormwater disposal, subject to recommended conditions requiring the construction of the stormwater infrastructure and creation of the stormwater easement over two stages.

2.7.8 Transport and Parking

As established in Table 2.7 of this report, the proposal complies with the *HDGP* requirement for the minimum provision of two car parking spaces behind the building line.

A Longitudinal Section of the proposed accessway has been submitted indicating a maximum gradient of 12.8%, complying with the *HDGP* requirement for a maximum gradient of 20% for subdivisions producing four or more lots.

Vehicles egressing the lower ground floor garage of the proposed dwelling house would be able to utilise the proposed accessway to manoeuvre and egress from the site in a forward direction. It is considered that the subdivision design and the regular lot shapes would ensure that vehicular egress

from future dwelling houses within the rear 3 lots is capable of being achieved in a forward direction in accordance with *Australian Standard AS2890*.

The proposal meets the provisions of the *HDCP* with respect to Transport and Parking.

2.8 Section 7.11 Contributions Plans

Hornsby Shire Council Section 7.11 Contributions Plan 2020-2030 applies to the development as it would result in an additional two allotments. Accordingly, the requirement for a monetary Section 7.11 contribution is recommended as a condition of consent.

3. ENVIRONMENTAL IMPACTS

Section 4.15(1)(b) of the Act requires Council to consider *“the 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 Staging of Works

As previously discussed, the application seeks to split the works over 2 stages. Stage 1 would comprise tree removal, demolition, boundary adjustment, the construction of a Right of Carriageway over proposed Lot 11 and the construction of the dwelling house. Stage 2 would comprise the subdivision of proposed Lot 12 into three lots and the construction of a Right of Carriageway over proposed Lots 121, 122 and 123.

To ensure that the proposed dwelling house would not encroach over the existing lot boundaries prior to the issue of the Subdivision Certificate for the boundary adjustment (Stage 1), Council recommends splitting the works over three stages as follows:

Stage 1 - The removal of 25 trees, the demolition of the dwelling house, in-ground swimming pool and carport, boundary adjustment between existing Lots 1 and 2 DP 444486 and the construction of a Right of Carriageway over proposed Lot 11.

Stage 2 - The construction of a two-storey dwelling house on proposed Lot 11.

Stage 3 - Torrens title subdivision of proposed Lot 12 into 3 lots and the construction of a Right of Carriageway over proposed Lots 121, 122 and 123.

Discussions between Council and the applicant have confirmed that this would be an appropriate staging of the consent.

3.2 Social Impacts

The residential development would improve housing choice in the locality by providing additional Torrens title allotments capable of accommodating future dwelling houses. This is consistent with Council's Housing Strategy which identifies the need to provide a mix of housing options to meet future demographic needs in Hornsby Shire.

3.3 Economic Impacts

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

4. SITE SUITABILITY

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

The subject site has not been identified as bushfire prone or flood prone land and is not burdened by any easements or restrictions. The proposal has demonstrated the ability to avoid the removal significant vegetation and provides a subdivision and dwelling design that is appropriate for the locality and heritage conservation area. The 12% gradient of the site is suitable for residential development and provides ample amenity to adjacent properties.

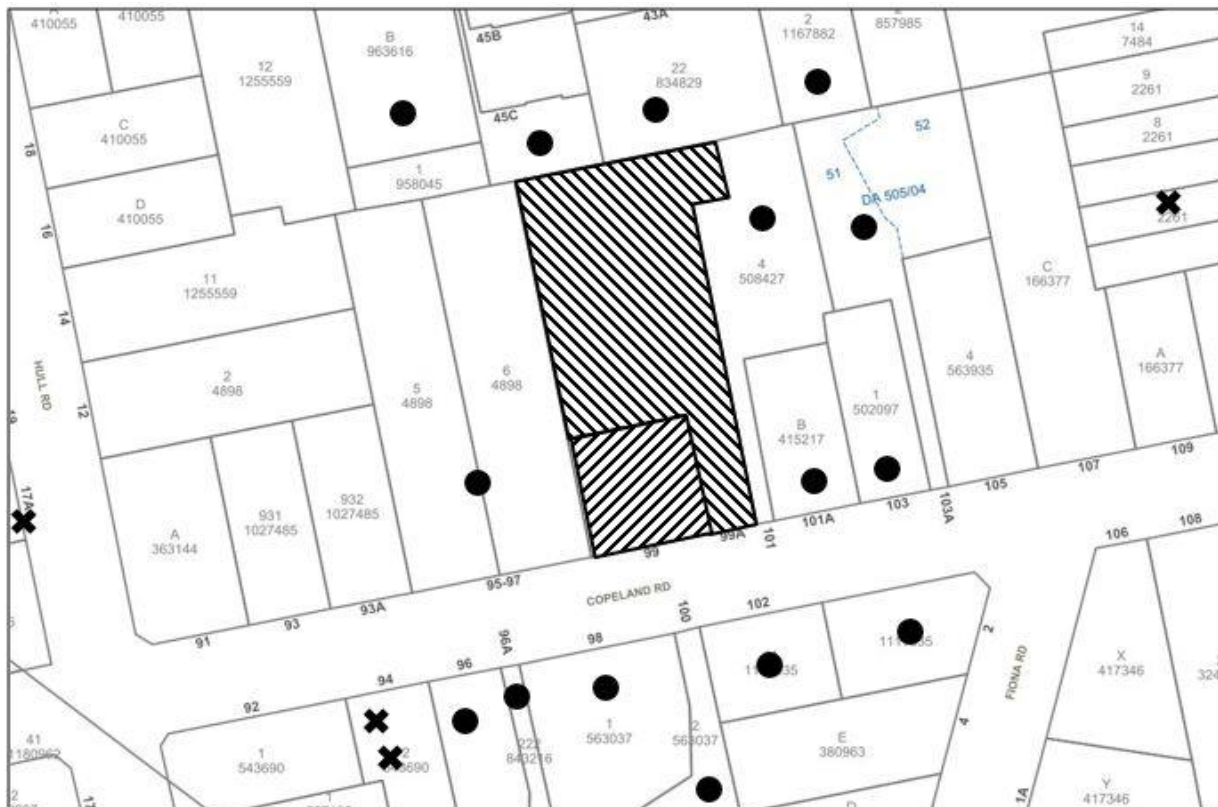
The site is considered to be capable of accommodating the proposed development. The scale of the proposed development is consistent with the capability of the site and is considered acceptable.

5. PUBLIC PARTICIPATION


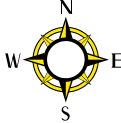
Section 4.15(1)(d) of the Act requires Council to consider “*any submissions made in accordance with this Act*”.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 18 November and 12 December 2020 in accordance with the Hornsby Community Participation Plan. The proposal was renotified between 5 February and 2 March 2021 upon the submission of additional information and revised plans. During these periods, Council received a total of 22 submissions in objection. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

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

Twenty-two submissions objected to the development, generally on the grounds that:

- The proposed demolition of the dwelling house, the subdivision of land and the reduction of curtilage and gardens would significantly impair the value of the Heritage Conservation Area and streetscape.
- The existing dwelling house significantly contributes to the values of the HCA and its proposed demolition should be prevented.
- The property should be subdivided into 2 or 3 allotments rather than 4 lots to preserve its heritage value.
- There will be extensive excavation to facilitate the proposed dwelling house, plunge pool and landscaping.
- A significant number of mature trees would be removed from the site to facilitate the proposed development.
- The footprint of the proposed dwelling house on Lot 11 could be reduced to enable the retention of additional trees, particularly tree Nos. 12, 13 and 41.
- Smaller scale vegetation (small trees and shrubs) have not been plotted on the Landscape Plan and would be removed in place of new replacement planting. The existing shrubs complement the retained sandstone fence and positively contribute to the streetscape.
- The proposed accessway and passing bay would pose a detrimental privacy and amenity impact to proposed Lots 11 and 121.
- The proposed allotments are of inadequate size given the site constraints.
- The accessway design is unorthodox and results in large areas of undevelopable land. It is argued that the two rear lots are undersized as a result.
- Construction trucks would be parked along Copeland Road making it difficult for vehicles to safely pass and would impact sight lines when exiting nearby properties.
- The slope of the land warrants larger lot sizes to address perceived privacy and amenity impacts.
- Proposed Lots 11 and 121 are inappropriately shaped given the design of the proposed accessway.
- The extensive front setback of the proposed dwelling house on Lot 11 results in a minimal rear setback and subsequent amenity issues at the rear of the dwelling.
- the location of the proposed passing bay would pose a safety risk to occupants of the proposed dwelling when entering and exiting the garage.

- The submitted Statement of Heritage Impact is substantially deficient with regard to its assessment of the demolition of dwelling, features of the site, gardens, curtilage and its contribution to the HCA. The report also fails to explore the possibility of restoration of the dwelling and fails to explain why the additions are intrusive.
- The proposal contributes to the cumulative effect of similar approvals in the vicinity which has negatively altered the character of the HCA.
- The application should propose to renovate the dwelling to improve its contribution to the HCA.
- The existing dwelling house, gardens and curtilage are worthy of being heritage listed by Council.
- Consideration should be given to the amendment of the proposal to include semi-detached dwellings to the rear to minimise use of space.
- It is requested that Council place an Interim Heritage Order on the property to constrain development of the site.

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 Duplex Alternative

A submission has been received suggesting that the existing dwelling house could be retained via the rearrangement of the subdivision layout and the provision of a semi-detached dwelling within a smaller rear allotment.

As discussed in the body of the report, the dwelling house has been recommended to be demolished as it has been significantly altered and is not identified as being individually significant or a 'contributory item' within the Heritage Conservation Area. Notwithstanding, in the instance that the subdivision pattern was rearranged, the *HLEP* prohibits semi-detached dwellings within the R2 Low density residential zone.

5.1.2 Construction Traffic

A submission has been received raising concerns that construction trucks would be parked along Copeland Road making it difficult for vehicles to safely pass and would impact sight lines when exiting nearby properties.

In addressing this submission, it is noted that Copeland Road is a public road accessible to construction vehicles for parking and access. The proposed physical works are moderate in scale, comprising a dwelling house, stormwater and accessway construction and tree removal and it is anticipated that street parking along Copeland Road would be minimally affected by the proposal.

Nonetheless, it is anticipated that smaller scale construction vehicles would be able to enter and park within the site boundaries.

A condition has been recommended under Schedule 1 requiring the imposition of a Construction Management Plan (CMP) during construction works.

5.1.3 Heritage Report

Submissions have been received raising concerns that the submitted Statement of Heritage Impact is substantially deficient with regard to its assessment of the demolition of dwelling, features of the site, gardens, curtilage and its contribution to the HCA. The report also fails to explore the possibility of restoration of the dwelling and fails to explain why the additions are intrusive.

In addressing these submissions, it is acknowledged that Council's heritage assessment has taken into consideration the submitted Statement of Heritage Impact. Council has deemed the Statement of Heritage Impact to be adequate for the purposes of development assessment and for the determination of the extent of heritage impact.

5.1.4 Cumulative Heritage Impact

Submissions have been received raising concerns that the proposal contributes to the cumulative effect of similar approvals in the vicinity which has negatively altered the character of the HCA.

Council acknowledges that the character of the HCA is evolving as a result of recent developments and land subdivisions in the vicinity. The provisions of the HDCP and *HLEP* seek to maintain the values and character of the HCA whilst permitting reasonable development with suitable merit. As determined in the body of the report, the proposal has substantial merit and would pose minimal impact to the character of the HCA.

Accordingly, the proposed development would have a minor impact on the cumulative loss of heritage in the vicinity.

5.1.5 Dwelling Renovation

A submission has been received suggesting that the application should propose to renovate the dwelling to improve its contribution to the HCA.

Section 4.15 of the *Environmental Planning and Assessment Act 1979* requires the consent authority (Council) to consider the environmental impact of a proposed development in undertaking its assessment. The scope of Council's assessment must solely relate to the proposed development put forward by the proponent. Council cannot require a proponent to propose alternate types of development.

In any case, Council's heritage assessment has deemed the demolition of the dwelling house to be acceptable.

5.1.6 Interim Heritage Order

Submissions have been received requesting the placement of an Interim Heritage Order on the existing dwelling house, gardens and curtilage to constrain development on the site.

Council's heritage assessment raises no concerns to the proposed development and has not recommended the placement of an Interim Heritage Order on the site.

5.2 Public Agencies

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

6. THE PUBLIC INTEREST

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

The public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. Implicit to the public interest is the achievement of future built outcomes

adequately responding to and respecting the future desired outcomes expressed in environmental planning instruments and development control plans.

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

CONCLUSION

The application proposes the demolition of structures, Torrens title subdivision of 2 allotments into 4 lots and construction of a two-storey dwelling house as a staged development. The development will be constructed in 2 stages.

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

Council received 22 submissions during the public notification period. The matters raised have been addressed in the body of the report.

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

The reasons for this decision are:

- The proposed development generally complies with the requirements of the relevant environmental planning instruments and the *Hornsby Development Control Plan 2013*.
- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, heritage conservation, tree preservation, earthworks, landscaping, traffic, vehicle access, overshadowing, 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.






RESPONSIBLE OFFICER

The officer responsible for the preparation of this report is Thomas Dales.

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

ROD PICKLES
Manager - Development Assessments
Planning and Compliance Division

Attachments:

1.  Locality Map
2.  Plans
3.  Survey Plan
4.  Arborist Report
5.  Heritage Report

File Reference: DA/985/2020

Document Number: D08127478

ITEM 3

SCHEDULE 1**CONDITIONS APPLICABLE TO BOTH STAGES****GENERAL CONDITIONS**

The conditions of consent within this notice of determination have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the relevant legislation, planning instruments and Council policies affecting the land and does not disrupt the amenity of the neighbourhood or impact upon the environment.

Note: For the purpose of this consent, the term 'applicant' means any person who has the authority to act on or the benefit of the development consent.

Note: For the purpose of this consent, any reference to an Act, Regulation, Australian Standard or publication by a public authority shall be taken to mean the gazetted Act or Regulation or adopted Australian Standard or publication as in force on the date that the application for a construction certificate is made.

1. Staged Construction

The development is to be constructed in the following sequential stages:

- a) Stage 1 - The removal of 25 trees, the demolition of the dwelling house, in-ground swimming pool and carport, boundary adjustment between existing Lots 1 and 2 DP 444486, the construction of a Right of Carriageway over proposed Lot 11.
- b) Stage 2 - Construction of a two-storey dwelling house on proposed Lot 11.
- c) Stage 3 - Torrens title subdivision of proposed Lot 12 into 3 lots and the construction of a Right of Carriageway over proposed Lots 121, 122 and 123.

2. Approved Plans and Supporting Documentation

The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by Council and/or other conditions of this consent:

Approved Plans

Plan No.	Plan Title	Drawn by	Dated	Council Reference
ES383-81483	Stage 1 – Subdivision Plan	Burton & Field Surveying & Land Development	16.02.21	
ES383-81483	Stage 2 – Subdivision Plan	Burton & Field Surveying & Land Development	16.02.21	
Sk53a, Issue A	Demolition Plan	Brooks Projects Architects	12.10.20	
Sk211, Issue L	Site Plan	Brooks Projects Architects	22.02.21	

Plan No.	Plan Title	Drawn by	Dated	Council Reference
Sk22d, Issue D	Lower Ground Floor Plan	Brooks Projects Architects	30.03.21	
Sk23d, Issue D	Ground Floor Plan	Brooks Projects Architects	22.02.21	
Sk24c, Issue C	South & West Elevations	Brooks Projects Architects	02.02.21	
Sk25d, Issue D	East & North Elevations	Brooks Projects Architects	30.03.21	
Sk26b, Issue B	Section Plan	Brooks Projects Architects	02.02.21	
02327_201, Rev 07	General Arrangement Plan	C&M Consulting Engineers	30.03.21	
02327_701, Rev 06	Sediment & Erosion Control Plan	C&M Consulting Engineers	01.02.21	
238.21(20)/466 'C', Revision C	Landscape Plan	iScape Landscape Architecture	30.03.21	

Supporting Documents

Document Title	Prepared by	Dated	Council Reference
Arboricultural Impact Assessment	Advanced Treescape Consulting	01.04.21	D08139000
BASIX Certificate No. 1131646S	Gradwell Consulting	03.09.20	D08051246
Waste Management Plan	Frobat Pty Ltd	27.08.20	D08051229

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**3. Appointment of a Project Arborist**

A project arborist with AQF Level 5 qualifications must be appointed.

Details of the appointed project arborist must be submitted to Council and the PCA for registration with the application for the Construction Certificate.

4. Building Code of Australia

All approved building work must be carried out in accordance with the relevant requirements of the Building Code of Australia.

5. Utility Services

The applicant must submit written evidence of the following service provider requirements:

- a) *Ausgrid (formerly Energy Australia)* - a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.
- b) *Telstra / NBN Co.* - a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.

6. Sydney Water – Approval

This application must be submitted to *Sydney Water* for approval to determine whether the development would affect any *Sydney Water* infrastructure, and whether further requirements are to be met.

Note: Building plan approvals can be obtained online via Sydney Water Tap in™ through www.sydneywater.com.au under the Building and Development tab.

7. Identification of Survey Marks

A registered surveyor must identify all survey marks in the vicinity of the proposed development. Any survey marks required to be removed or displaced as a result of the proposed development shall be undertaken by a registered surveyor in accordance with Section 24 (1) of the *Surveying and Spatial Information Act 2002* and following the Surveyor General's Directions No.11 - *Preservation of Survey Infrastructure*.

8. Construction Management Plan (CMP)

To assist in the protection of the public, the environment and Council's assets, a separate Construction Management Plan must be prepared by a suitably qualified environmental consultant in consultation with a qualified traffic engineer and AQF 5 arborist, and submitted to Council's Compliance Team at:

<https://www.hornsby.nsw.gov.au/property/build/applicationforms> for review and approval.

The CMP must include the following details:

- a) A Construction Traffic Management Plan (CTMP) including the following:
 - i) The order of construction works and arrangement of all construction machines and vehicles being used during all stages.
 - ii) The CTMP plans shall be in accordance with all other plans submitted to Council as part of this development proposal.
 - iii) A statement confirming that no building materials, work sheds, vehicles, machines or the like shall be allowed to remain in the road reserve area without the written consent of Hornsby Shire Council.
 - iv) The Plan shall be in compliance with the requirements of the Roads and Maritime Services *Traffic control at work sites Manual 2018* and detail:
 - a. Public notification of proposed works.

- b. Long term signage requirements.
- c. Short term (during actual works) signage.
- d. Vehicle Movement Plans, where applicable.
- e. Traffic Management Plans.
- f. Pedestrian and Cyclist access and safety.
- v) Traffic controls including those used during non-working hours. Pedestrian access and two-way traffic in the public road must be able to be facilitated at all times.
- vi) Details of parking arrangements for all employees and contractors, including layover areas for large trucks during all stages of works. The parking or stopping of truck and dog vehicles associated with the development will not be permitted other than on the site and the plan must demonstrate this will be achieved.
- vii) Confirmation that a street 'scrub and dry' service will be in operation during all stages of works.
- viii) Proposed truck routes to and from the site including details of the frequency of truck movements for all stages of the development.
- ix) Swept path analysis for ingress and egress of the site for all stages of works.
- x) Site plans for all stages of works including the location of site sheds, concrete pump and crane locations, unloading and loading areas, waste and storage areas, existing survey marks, vehicle entry, surrounding pedestrian footpaths and hoarding (fencing) locations.
- xi) The total quantity and size of trucks for all importation and exportation of fill on site throughout all stages of works, and a breakdown of total quantities of trucks for each stage of works.
- xii) The number of weeks trucks will be accessing and leaving the site with excavated or imported fill material.
- xiii) The maximum number of trucks travelling to and from the site on any given day for each stage of works.
- xiv) The maximum number of truck movements on any given day during peak commuting periods for all stages of works.
- xv) The source site location of any proposed fill to be imported to the site, for all stages of works.
- xvi) The Plan must state that the applicant and all employees of contractors on the site must obey any direction or notice from the Prescribed Certifying Authority or Hornsby Shire Council in order to ensure the above.
- xvii) If there is a requirement to obtain a Work Zone, Out of Hours permit, partial Road Closure or Crane Permit, the Plan must detail these requirements and include a statement that an application to Hornsby Shire Council will be made to obtain such a permit.

- b) A Construction Waste Management Plan detailing the following:
 - i) Details of the importation or excavation of soil and fill, the classification of the fill, disposal methods and authorised disposal depots that will be used for the fill.
 - ii) Asbestos management requirement and procedures for removal and disposal from the site in accordance with *AS 2601–2001 – ‘The Demolition of Structures’*, and the *Protection of the Environment Operations (Waste) Regulation 2005*.
 - iii) General construction waste details including construction waste skip bin locations and litter management for workers.
- d) A Tree Protection Plan (TPP) prepared by an AQF 5 Arborist in accordance with any approved Arboricultural Impact Assessment and tree location plans, detailing the following:
 - i) A site plan showing tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and specific details of tree protection measures inclusive of distances (in metres) measured from tree trunks.
 - ii) Construction methodology to avoid damage to trees proposed to be retained during construction works.
 - iii) Specifications on tree protection materials used and methods within the TPZ or SRZ.
 - iv) Location of dedicated material storage space on site outside of TPZ's and SRZ's for retained trees.
- e) A Construction Noise and Vibration Management Plan (CNMP) which includes:
 - i) Existing noise and vibration levels within the proximity of the proposed development site.
 - ii) Details of the extent of rock breaking or rock sawing works forming part of the proposed development works.
 - iii) The maximum level of noise and vibration predicted to be emitted during each stage of construction.
 - iv) The duration of each stage of works where the maximum level of noise and vibration are predicted to be emitted for.
 - v) Details of mitigation measures, inclusive of respite periods, that will meet acoustic standards and guidelines at each stage of works.
 - vi) Details of a complaints handling process for the surrounding neighbourhood for each stage of works.
- f) Identification of approved sediment and erosion control measures.
- g) The CMP must detail the contact information for developers, builder, private certifier and any emergency details during and outside work hours.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

9. Erection of Construction Sign

- a) A sign must be erected in a prominent position on any site on which any approved work is being carried out:
 - i) Showing the name, address and telephone number of the principal certifying authority for the work.
 - ii) Showing 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.
 - iii) Stating that unauthorised entry to the work site is prohibited.
- b) The sign is to be maintained while the approved work is being carried out and must be removed when the work has been completed.

10. Protection of Adjoining Areas

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.
- c) Involve the enclosure of a public place or part of a public place.
- d) Have been identified as requiring a temporary hoarding, fence or awning within the Council approved Construction Management Plan (CMP).

Note: Notwithstanding the above, Council's separate written approval is required prior to the erection of any structure or other obstruction on public land.

11. Toilet Facilities

- a) 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.
- b) Each toilet must:
 - i) Be a standard flushing toilet connected to a public sewer.
 - ii) Be a temporary chemical closet approved under the *Local Government Act 1993*.
 - iii) have an on-site effluent disposal system approved under the *Local Government Act 1993*.

12. Erosion and Sediment Control

To protect the water quality of the downstream environment, erosion and sediment control measures must be provided and maintained throughout the construction period in accordance with the manual '*Soils and Construction 2004 (Bluebook)*', the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and

sediment control devices must remain in place until the site has been stabilised and revegetated.

Note: On the spot penalties may be issued for any non-compliance with this requirement without any further notification or warning.

13. Installation of Tree Protection Measures

Trees to be retained and numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 20, 26, 27, 28, 32, 33 and 34 as identified on the Tree Location Plan prepared by Advanced Treescape Consulting dated 1 April 2021 must have tree protection measures for the ground, trunk and canopy installed by the project arborist for the duration of demolition and construction works.

14. Protection of Vegetation During Construction

To ensure the protection of vegetation, habitat and environmental features during construction, the following must occur:

- a) Install 1.2-metre-high chain wire fencing (or similar) along the boundary of the Blue Gum Shale Forest offset areas as shown on the approved Landscape Plan prepared by iScape Landscape Architecture dated 30 March 2021.
- b) Clean machinery of soil and debris before entering the site to prevent the spread of weeds and fungal pathogens.

15. Garbage Receptacle

- a) A garbage receptacle must be provided at the work site before works begin and must be maintained until all works are completed.
- a) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
- b) The receptacle lid must be kept closed at all times, other than when garbage is being deposited.
- c) Food scraps must be placed in the garbage receptacle and not in demolition and construction waste bins.

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION

16. Construction Work Hours

All works on site, including demolition and earth works, must only occur between 7am and 5pm Monday to Saturday.

No work is to be undertaken on Sundays or public holidays.

17. Environmental Management

To prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction, the site must be managed in accordance with the publication *'Managing Urban Stormwater – Landcom (March 2004)* and the *Protection of the Environment Operations Act 1997*.

18. Compliance with Construction Management Plan

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

19. Council Property

To ensure that the public reserve is kept in a clean, tidy and safe condition during construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath.

20. 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.

21. Landfill

Landfill must be constructed in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and the following requirements:

- a) All fill material is to be sourced from the excavation works on the subject site.
- b) In the instance that additional fill is required to be imported to the site, the following conditions apply:
 - i) Prior to fill material being imported to the site, a Waste Classification Certificate shall be obtained from a suitably qualified environmental consultant confirming the fill wholly consists of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material approved under the *NSW Environment Protection Authority's Resource Recovery Orders and Exemptions*.
 - ii) The required Waste Classification Certificate must be obtained by the Principal Contractor prior to fill being imported to the site and made available to Council at its request.

22. Excavated Material

All excavated material removed from the site must be classified by a suitably qualified environmental consultant in accordance with the NSW Environment Protection Authority's *Waste Classification Guidelines* and *Protection of the Environment Operations (Waste) Regulation 2014* prior to disposal to a licensed waste management facility. Tipping dockets for the total volume of excavated material that are received from the licensed waste management facility must be provided to the principal certifying authority prior to the issue of an Subdivision or Occupation Certificate.

23. Waste Management

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

24. Sandstone Wall

The existing low sandstone front boundary wall, pedestrian entry, metal gate, driveway width and curved stone wall and pillars are to be protected during demolition and construction works.

25. 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:

- a) Soil cutting or filling, including excavation and trenching.
- b) Soil cultivation, disturbance or compaction.
- c) Stockpiling storage or mixing of materials.
- d) The parking, storing, washing and repairing of tools, equipment and machinery.
- e) The disposal of liquids and refuelling.
- f) The disposal of building materials.
- g) The siting of offices or sheds.
- h) Any action leading to the impact on tree health or structure.

26. 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 trees numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 20, 26, 27, 28, 32, 33 and 34 on the approved plans.

27. Maintaining Tree Protection Measures

Tree Protection Measures must be maintained by the project arborist in accordance with the submitted Tree Protection Plan.

28. Approved Works within Tree Protection Zone Incursions

- a) 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:
 - i) Using sharp secateurs, pruners, handsaws or chainsaws with the final cut being clean.
 - ii) The maximum diameter of roots permitted to be cut is 50mm.
- b) The new driveway must be constructed using the following process:
 - i) To minimise soil compaction the proposed driveway must be built above grade using sensitive construction techniques in the form of piers or screw pilings.
 - ii) To minimise soil compaction all imported material in the vicinity of the replacement driveway must be distributed by hand.
- c) Where the building footprint enters or transects the Tree Protection Zones of trees to be retained, sensitive construction techniques in the form of screw pilings or piers,

cantilevered or suspended slab design must be employed to create a 100mm clearance above existing soil grade.

- d) Approved excavations within the Tree Protection Zone of trees to be retained numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 20, 26, 27, 28, T32, 33 and 34 not associated with installation of services must be undertaken as follows:
 - i) Excavations associated with the basement and building footprint and within the Tree Protection Zone of trees numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 20, 26, 27, 28, T32, 33 and 34 must be overseen by the AQF 5 project arborist for the first 1m undertaken manually to locate roots and allow for pruning.
 - ii) Excavations for the construction and/or installation of the house/deck/driveway/piers in the Tree Protection Zone of trees to be retained numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 20, 26, 27, 28, T32, 33 and 34 on the approved plans must be supervised by the project arborist for the first 1.000 meter undertaken manually to locate roots and allow for pruning.
- e) Grade changes in the form of filling, are permissible outside the Structural Root Zone in conjunction with piers.
- f) To minimise impacts within the Tree Protection Zone (TPZ) of trees numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 20, 26, 27, 28, T32, 33 and 34 on the approved plans, the installation of services must be undertaken as follows:
 - i) The AQF 5 project arborist must be present to oversee the installation of any underground services which enter or transect the tree protection.
 - ii) The installation of any underground services which either enter or transect the designated TPZ must be undertaken manually.
 - iii) 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.
- g) Where scaffolding is required, ground protection must be installed beneath the scaffolding in the following order:
 - i) Installation of a 100mm deep layer of woodchip.
 - ii) Installation of geotextile fabric ground covering.
 - iii) Installation of scaffold boarding above the woodchip and geotextile fabric.

29. Building Materials and Site Waste

The stockpiling of building materials, the parking of vehicles or plant, the disposal of cement slurry, waste water 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.

30. Archaeological Relics

In the event that any archaeological relics (Archaeological 'relics' are protected under the *NSW Heritage Act*) relating to the original dwelling and occupation of the site are discovered during demolition, ground works or clearing of the site, all work in the area must cease immediately. A suitably qualified heritage and archaeologist professional must be contacted

and further investigation and recording of the site carried out if required prior to commencement of works.

31. 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 PCA and Council.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION/ SUBDIVISION CERTIFICATE

32. Damage to Council Assets

To protect public property and infrastructure, any damage caused to Council's assets as a result of the construction or demolition of the development must be rectified by the applicant in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions). Rectification works must be undertaken prior to the issue of an Occupation Certificate, or sooner, as directed by Council.

33. Retaining Walls

All required retaining walls must be constructed as part of the development.

34. Completion of Works and Compliance Certificate

All engineering works identified in this consent are to be completed and a Compliance Certificate issued prior to the release of the Subdivision Certificate.

35. Boundary Fencing

Any 1.8m high side boundary fencing is to be located behind the building line (i.e. setback a minimum of 13 metres from the Copeland Road front boundary) to maintain the landscaped character of the streetscape.

ADDITIONAL CONDITIONS APPLICABLE TO STAGE 1

GENERAL CONDITIONS

The conditions of consent within this notice of determination have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the relevant legislation, planning instruments and Council policies affecting the land and does not disrupt the amenity of the neighbourhood or impact upon the environment.

Note: For the purpose of this consent, the term 'applicant' means any person who has the authority to act on or the benefit of the development consent.

Note: For the purpose of this consent, any reference to an Act, Regulation, Australian Standard or publication by a public authority shall be taken to mean the gazetted Act or Regulation or adopted Australian Standard or publication as in force on the date that the application for a construction certificate is made.

36. Removal of Existing Trees

This development consent permits the removal of trees numbered 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 29, 30, 31, 35, 36, 37, 38, 39, 40 and 41 as identified in the

Arboricultural Impact Assessment prepared by Advanced Treescape Consulting dated 1 April 2021.

37. Construction Certificate

- a) A Subdivision Works Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any subdivision works under this consent.
- b) A separate Subdivision Works Certificate must be obtained from Council for all works within the public road reserve under S138 of the *Roads Act*.
- c) The Subdivision Works Certificate plans must be consistent with the Development Consent plans.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

38. Internal Driveway/Vehicular Areas

The accessway and passing bay for the approved subdivision (boundary adjustment) must be designed and a Construction Certificate issued in accordance with *Australian Standards AS2890.1 and AS3727* and the following requirements:

- a) The initial 9m of the existing concrete driveway is to be retained to maintain the heritage streetscape in accordance with the approved 'General Arrangement Plan' prepared by C&M Consulting Engineers dated 30 March 2021.
- b) The driveway be a rigid pavement.
- c) The driveway pavement be a minimum 3 metres wide, 0.15 metres thick reinforced concrete with F72 steel reinforcing fabric and a 0.15 metre sub-base.
- d) The pavement have a kerb to one side and a one-way cross fall with a minimum gradient of 2 percent and a lintel and pit provided at the low point.
- e) A passing bay of 6m long (extending into the property) and 5.5m wide with 1:4 transition and shall be constructed at the location indicated on the approved plans.
- f) Conduit for utility services including electricity, water, gas and telephone be provided. All existing overhead assets including electricity and telecommunications cabling shall be relocated underground at no cost to Council. A certificate from an appropriately licensed contractor shall be submitted to the principal certifying authority certifying that the service conduits have been installed in accordance with the relevant utility provider and Australian Standards.
- g) Longitudinal sections along both sides of the access driveway shall be submitted to the principal certifying authority in accordance with the relevant sections of AS 2890.1. The maximum grade shall not exceed 1 in 4 (25%) with the maximum changes of grade of 1 in 8 (12.5%) for summit grades and 1 in 6.7 (15%) for sag grades. Any transition grades shall have a minimum length of 2 metres. The longitudinal sections shall incorporate the design levels obtained by Council.

39. Stormwater Drainage

The stormwater drainage system for the subdivision (boundary adjustment) must be designed in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and the following requirements:

- a) Connected to an existing Council street gutter in Copeland Road.
- b) An inter-allotment stormwater drainage system to service the proposed subdivision with pits being cast in situ or pre-cast concrete pits being used.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

40. 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.

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION

41. Demolition

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

- a) 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.
- b) 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*.
- c) 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.

REQUIREMENTS PRIOR TO THE ISSUE OF A OR SUBDIVISION CERTIFICATE

42. Sydney Water – s73 Certificate

A s73 Certificate must be obtained from Sydney Water and submitted to the PCA.

Note: Sydney Water requires that s73 applications are to be made through an authorised Sydney Water Servicing Coordinator. Refer to www.sydneywater.com.au or telephone 13 20 92 for assistance.

43. Creation of Easements

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

- a) A right of access and easement for services over the access corridor.

- b) An inter-allotment drainage easement(s) over each of the burdened lots.
- c) The creation of a *“Positive Covenant”* over proposed Lot 12 requiring that any future development is to provide an on-site detention system. The on-site detention system is to have a storage capacity of 5 cubic metres and a maximum discharge of 8 litres per second into Council’s drainage system in accordance with Council’s prescribed wording.
- d) An easement for letterboxes shall be created to service all potential lots. The 88b instrument shall be worded to reflect the obligations and responsibilities of the benefiting and burdening parties.

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

44. Construction of Internal Driveway/Vehicular Areas

The driveway and parking areas on site must be constructed in accordance with *Australian Standards AS2890.1, AS2890.2, AS3727* and the requirements of condition No. 38 of this consent prior to issue of the Subdivision Certificate.

ADDITIONAL CONDITIONS APPLICABLE TO STAGE 2

GENERAL CONDITIONS

The conditions of consent within this notice of determination have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the relevant legislation, planning instruments and Council policies affecting the land and does not disrupt the amenity of the neighbourhood or impact upon the environment.

Note: For the purpose of this consent, the term ‘applicant’ means any person who has the authority to act on or the benefit of the development consent.

Note: For the purpose of this consent, any reference to an Act, Regulation, Australian Standard or publication by a public authority shall be taken to mean the gazetted Act or Regulation or adopted Australian Standard or publication as in force on the date that the application for a construction certificate is made.

45. Amendment of Plans

- a) To comply with Councils requirement in terms of heritage conservation, the approved Elevation Plans are to be amended as follows:
 - i) The Schedule of Finishes is to include a detailed external colour scheme for the proposed face bricks, weatherboards and roof of the approved dwelling on proposed Lot 11.
- b) These amended plans must be submitted with the application for the Construction Certificate.

46. Construction Certificate

- a) A Construction Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any construction works under this consent.

- b) The Construction Certificate plans must be consistent with the Development Consent plans.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE
--

ITEM 3**47. Registration of Subdivision**

A registered plan of subdivision from the NSW Land Registry Services (NSW LRS) creating the proposed Stage 1 Lots 11 and 12 must be submitted to Council prior to the issue of a Construction Certificate for the approved dwelling house on Lot 11.

48. 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.

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

- a) In the case of work for which a principal contractor is required to be appointed:
- i) The name and licence number of the principal contractor.
 - ii) The name of the insurer by which the work is insured under Part 6 of that Act.
- b) In the case of work to be done by an owner-builder:
- i) The name of the owner-builder.
 - ii) 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 certifying authority for the development to which the work relates (not being Council) has given Council written notification of the updated information.

50. Internal Driveway/Vehicular Areas

The internal driveway servicing the approved dwelling house within approved Lot 11 must be designed and a Construction Certificate issued in accordance with *Australian Standards AS2890.1 AS3727* and the following requirements:

- a) The driveway be a rigid pavement.
- b) The driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent.
- c) The driveway pavement be a minimum 3 metres wide, 0.15 metres thick reinforced concrete with F72 steel reinforcing fabric and a 0.15 metre sub-base.

51. Stormwater Drainage

The stormwater drainage system for the approved dwelling house must be designed for an average recurrence interval (ARI) of 20 years and be gravity drained in accordance with the following requirements:

- a) Connected directly to stormwater drainage line constructed with the subdivision or street gutter.
- b) Must be designed by a qualified hydraulic / civil engineer.

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION

52. Survey Report

A report(s) must be prepared by a registered surveyor and submitted to the principal certifying authority:

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

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

53. Fulfilment of BASIX Commitments

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

54. Construction of Internal Driveway/Vehicular Areas

The driveway and parking areas on site must be constructed in accordance with *Australian Standards AS2890.1, AS2890.2, AS3727* and the requirements of condition No. 50 of this consent prior to issue of the Occupation Certificate.

OPERATIONAL CONDITIONS

55. Swimming Pool Requirements

The construction and operation of the swimming pool must comply with the provisions of the *Swimming Pool Act 1992*, the *Swimming Pool Regulation 2008*, *Australian Standards AS1926.1-3 – Swimming Pool Safety* and the following requirements:

- a) All waste water from the pool's filtration system must be piped to *Sydney Water's* sewer system. In the event that *Sydney Water's* sewer system is not accessible, a filtration system that does not require backwashing must be installed.
- b) The filtration motor and pump, or spa heater and blower unit must be housed in a soundproofed structure. Sound from the equipment must not exceed 5(dBA) above ambient noise levels at any residential property boundary.
- c) The swimming pool must be located a minimum of 6 metres from any existing wastewater disposal area as outlined in the "*Environment & Health Protection Guidelines – Onsite Sewage Management for Single Households (1998)*";

- d) 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 firefighting purposes by the NSW Fire Brigade or the NSW Rural Fire Service.

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.

ADDITIONAL CONDITIONS APPLICABLE TO STAGE 3

GENERAL CONDITIONS

The conditions of consent within this notice of determination have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the relevant legislation, planning instruments and Council policies affecting the land and does not disrupt the amenity of the neighbourhood or impact upon the environment.

Note: For the purpose of this consent, the term 'applicant' means any person who has the authority to act on or the benefit of the development consent.

Note: For the purpose of this consent, any reference to an Act, Regulation, Australian Standard or publication by a public authority shall be taken to mean the gazetted Act or Regulation or adopted Australian Standard or publication as in force on the date that the application for a construction certificate is made.

56. Subdivision Works Certificate

- a) A Subdivision Works Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any subdivision works under this consent.
- b) A separate Subdivision Works Certificate must be obtained from Council for all works within the public road reserve under S138 of the *Roads Act*.
- c) The Subdivision Works Certificate plans must be consistent with the Development Consent plans.

57. Section 7.11 Development Contributions

- a) In accordance with Section 4.17(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 7.11 Development Contributions Plan 2020-2030*, the following monetary contributions must be paid to Council to cater for the increased demand for community infrastructure resulting from the development:

Description	Contribution (4)
Roads	\$2,913.20
Open Space and Recreation	\$22,827.90
Community Facilities	\$14,059.90
Plan Preparation and Administration	\$199.00
TOTAL	\$40,000

being for an additional two Torrens title allotments.

- b) The value of this contribution is current as at 7 April 2021. If the contribution is not paid within the financial quarter that this condition was generated, the contribution payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 7.11 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

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 applicable in this Development Consent Condition.

- c) The monetary contribution must be paid to Council:
- i) Prior to the issue of the Subdivision Certificate where the development is for subdivision.
 - ii) Prior to the issue of the first Construction Certificate where the development is for building work.
 - iii) Prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work.
 - iv) Prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.

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

Council's 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.

EQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

58. Stormwater Drainage

The stormwater drainage system for the development must be designed in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and the following requirements:

- a) Connected to the system constructed with Stage 1 of the development (creation of lots 11 and 12).
- b) An inter-allotment stormwater drainage system to service the proposed subdivision with pits being cast in situ or pre-cast concrete pits being used.

59. Internal Driveway/Vehicular Areas

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

- a) The driveway be a rigid pavement.
- b) The driveway pavement be a minimum 3 metres wide, 0.15 metres thick reinforced concrete with F72 steel reinforcing fabric and a 0.15 metre sub-base.
- c) The pavement have a kerb to one side and a one-way cross fall with a minimum gradient of 2 percent and a lintel and pit provided at the low point.
- d) Conduit for utility services including electricity, water, gas and telephone be provided. All existing overhead assets including electricity and telecommunications cabling shall be relocated underground at no cost to Council. A certificate from an appropriately licensed contractor shall be submitted to the principal certifying authority certifying that the service conduits have been installed in accordance with the relevant utility provider and Australian Standards.
- e) A common turning area to service the proposed subdivision in accordance with *Australian Standards AS 2890.1* to ensure vehicles can enter and leave the site in a forward direction. A right of access shall be created over the turning area to ensure access is maintained at all times.
- f) Longitudinal sections along both sides of the access driveway shall be submitted to the principal certifying authority in accordance with the relevant sections of *AS2890.1*. The maximum grade shall not exceed 1 in 4 (25%) with the maximum changes of grade of 1 in 8 (12.5%) for summit grades and 1 in 6.7 (15%) for sag grades. Any transition grades shall have a minimum length of 2 metres. The longitudinal sections shall incorporate the design levels obtained by Council.

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE
60. Sydney Water – s73 Certificate

A s73 Certificate must be obtained from Sydney Water and submitted to the PCA.

Note: Sydney Water requires that s73 applications are to be made through an authorised Sydney Water Servicing Coordinator. Refer to www.sydneywater.com.au or telephone 13 20 92 for assistance.

61. Construction of Internal Driveway/Vehicular Areas

The driveway and parking areas on site must be constructed in accordance with *Australian Standards AS2890.1, AS2890.2, AS3727* and the requirements of condition No. 59 of this consent prior to issue of the Subdivision Certificate.

62. Replacement Tree Requirements

The 25 trees approved for removal under this consent must be offset through replacement planting in accordance with the approved Landscape Plan prepared by iScape Landscape Architects dated 30 March 2021, and the following requirements:

- a) The pot size of the replacement groundcovers/shrubs/trees must be in accordance with the Landscape Plan.
- b) All replacement trees (with a mature height of 3m or greater) must be a minimum of 3 metres in height at planting.

63. Final Tree Certification

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

- a) All tree protection requirements complied with the as approved tree protection plan for the duration of demolition and/or construction works.
- b) All completed works relating to tree protection and maintenance have been carried out in compliance with the conditions of consent and approved plans.
- c) Dates, times and reasons for all site attendance.
- d) All works undertaken to maintain the health of retained trees.
- e) Details of tree protection zone maintenance for the duration of works.

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

64. Final Landscaping Certification

A certificate must be provided by a practicing landscape architect, horticulturalist or person with similar qualifications and experience to certify that all required landscaping works have been satisfactorily completed in accordance with the approved Landscape Plan provided by iScape Landscape Architecture dated 30 March 2021.

65. Creation of Easements

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

- a) A right of access and easement for services over the access corridor.
- b) An inter-allotment drainage easement(s) over each of the burdened lots.
- c) The creation of a *“Positive Covenant”* over the proposed Lots 121, 122 and 123 requiring that any future development is to provide an on-site detention system. The on-site detention system is to have a storage capacity of 5 cubic metres and a maximum discharge of 8 litres per second into Council's drainage system in accordance with Council's prescribed wording.
- d) To inform current and future owners that the areas of lots 11 and 121 identified as Blue Gum Shale Forest offset areas are to be protected from future development, a Restriction as to User must be created. The area affected by this restriction is to be the area of the site identified as Blue Gum Shale Forest offset areas in the approved Landscape Plan provided by iScape Landscape Architecture dated 30 March 2021.

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

- END OF CONDITIONS -

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with *the Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000*, other relevant legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

Environmental Planning and Assessment Act 1979 Requirements

The *Environmental Planning and Assessment Act 1979* requires:

- The issue of a construction certificate prior to the commencement of any works. Enquiries can be made to Council's Customer Services Branch on 9847 6760.
- A principal certifying authority to be nominated and Council notified of that appointment prior to the commencement of any works.
- Council to be given at least two days written notice prior to the commencement of any works.
- Mandatory inspections of nominated stages of the construction inspected.
- An occupation certificate to be issued before occupying any building or commencing the use of the land.

Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, a 'Long Service Levy' must be paid to the Long Service Payments Corporation or Hornsby Council.

Note: The rate of the Long Service Levy is 0.35% of the total cost of the work.

Note: Hornsby Council requires the payment of the Long Service Levy prior to the issue of a construction certificate.

Tree and Vegetation Preservation

Hornsby Development Control Plan 2013 Tree and Vegetation Preservation provisions have been developed under Council's authorities contained in *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* and the *Environmental Planning and Assessment Act 1979*.

In accordance with these provisions a person must not cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy the vegetation, lop or otherwise remove a substantial part of the trees or vegetation to which any such development control plan applies without the authority conferred by a development consent or a permit granted by Council.

Fines may be imposed for non-compliance with the *Hornsby Development Control Plan 2013*.

Note: A tree is defined as a long lived, woody perennial plant with one or relatively few main stems with the potential to grow to a height greater than three metres (3m). (HDCP 1B.6.1.c).

Dial Before You Dig

Prior to commencing any works, the applicant is encouraged to contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au for free information on potential underground pipes and cables within the vicinity of the development site.

Telecommunications Act 1997 (Commonwealth)

If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

Asbestos Warning

Should asbestos or asbestos products be encountered during demolition or construction works, you are advised to seek advice and information prior to disturbing this material. It is recommended that a contractor holding an asbestos-handling permit (issued by *SafeWork NSW*) be engaged to manage the proper handling of this material. Further information regarding the safe handling and removal of asbestos can be found at:

www.environment.nsw.gov.au

www.adfa.org.au

www.safework.nsw.gov.au

Alternatively, telephone the *SafeWork NSW* on 13 10 50.

Subdivision Certificate Requirements

A subdivision certificate application is required to be lodged with Council containing the following information:

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

Note: Council will not issue a subdivision certificate until all conditions of the development consent have been completed.

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

Fees and Charges – Subdivision

All fees payable to Council as part of any construction, compliance or subdivision certificate or inspection associated with the development (including the registration of privately issued certificates) are required to be paid in full prior to the issue of the subdivision certificate. Any additional Council inspections beyond the scope of any compliance certificate required to verify compliance with the terms of this consent will be charged at the individual inspection rate nominated in Council's Fees and Charges Schedule.

House Numbering

The house numbering for the Stage 1 boundary adjustment shall be:

Lot	Street Number	Street Name	Street Type	Locality
<i>Lot 11</i>	<i>99</i>	<i>Copeland</i>	<i>Road</i>	<i>Beecroft</i>
<i>Lot 12</i>	<i>99A</i>	<i>Copeland</i>	<i>Road</i>	<i>Beecroft</i>

The house numbering for the Stage 3 subdivision shall be:

Lot	Street Number	Street Name	Street Type	Locality
<i>Lot 121</i>	<i>99A</i>	<i>Copeland</i>	<i>Road</i>	<i>Beecroft</i>
<i>Lot 122</i>	<i>99B</i>	<i>Copeland</i>	<i>Road</i>	<i>Beecroft</i>
<i>Lot 123</i>	<i>99C</i>	<i>Copeland</i>	<i>Road</i>	<i>Beecroft</i>