



# **ELECTRONIC DETERMINATION BUSINESS PAPER**

## **LOCAL PLANNING PANEL MEETING**

**Wednesday 27 October 2021  
at 6:30pm**



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**3 ELECTRONIC - DA/471/2021 - USE OF INDUSTRIAL SITE AS DEPOT AND WASTE TRANSFER STATION - 5 BEAUMONT ROAD, MOUNT KURING-GAI**

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**EXECUTIVE SUMMARY**

**DA No:** DA/471/2021 (Lodged on 14 May 2021)

**Description:** Use of industrial site as a depot and a waste transfer station

**Property:** Lot 1124 DP 822257, No. 5 Beaumont Road, Mount Kuring-gai

**Applicant:** Cleanaway Operations Pty Ltd - Mr Ali Saeedi Cleanaway Operations

**Owner:** Hornsby Shire Council

**Estimated Value:** \$2,226,762

**Ward:** A

- The application involves construction of a depot and community recycling facility (waste transfer station) on a vacant industrial lot.
- The site is owned by Council. In accordance with Council's adopted Policy '*Proposed Council Developments*' an independent assessment of the development application has been undertaken by Nicola Neil from Octagon Planning Pty Ltd.
- The proposal complies with the relevant development standards and planning instruments including state environmental planning policies, *Hornsby Local Environmental Plan 2013* and Hornsby Development Control Plan 2013.
- No submissions have been received in respect of the application.
- The application is required to be determined by the Hornsby Council Local Planning Panel as the proposal is on land owned by Hornsby Shire Council.
- It is recommended that the application be approved.

**RECOMMENDATION**

THAT Development Application No. DA/471/2021 for a depot and a waste transfer station at Lot 1124 DP822257, No. 5 Beaumont Road, Mount Kuring-gai be approved subject to the conditions of consent detailed in Schedule 1 of LPP Report No. LPP34/21.

## ASSESSMENT

In accordance with the referral criteria and procedural requirements for Independent Hearing and Assessment Panels, the assessment of the development application has been referred to an independent town planning consultant as the landowner is a Hornsby Shire Council. The report by *Octagon Planning* is held at Attachment 1 of this report.

## CONCLUSION

The application proposes the construction of a depot and community recycling facility (waste transfer station) on a vacant industrial lot.

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

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

The reasons for this decision are:

- The proposed development 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 the adjoining built and natural environment with regard to trees and vegetation, stormwater, water quality, traffic, noise and waste management.

*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 Nicola Neil from Octagon Planning Pty Ltd.

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.   Consultant Report
3.   Collated Architectural Plans Listed in Condition 1



File Reference: DA/471/2021  
Document Number: D08260342

**ITEM 3**

**SCHEDULE 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, 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:

<b>Plan No.</b>	<b>Plan Title</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Council Reference</b>
SW02	Stormwater Management Plan Part A	Neilly Davies Consulting Engineers	17/02/2021	
SW03	Stormwater Management Plan Part B	Neilly Davies Consulting Engineers	17/02/2021	
MNT-DA01(B)	Location Plan	Cleanaway	20/08/2021	
MNT-DA02(A)	Existing Site Plan	Cleanaway	26/03/2021	
MNT-DA03(C)	Proposed Site Plan	Cleanaway	26/08/2021	
MNT-1.04(C)	Floor Plan, Roof Plan	Cleanaway	26/08/2021	
MNT-1.05(B)	Section, Elevations	Cleanaway	20/08/2021	
MNT-1.06(A)	Demountables	Cleanaway	26/03/2021	
MNT-1.07(A)	Signage Schedule	Cleanaway	26/03/2021	

<b>Document Title</b>	<b>Prepared by</b>	<b>Dated</b>	<b>Council Reference</b>
Arboricultural Impact Assessment Report Ref: 201117-5 Beaumont-AIA	Urban Arbor	17 November 2020	D08168264
Transport for New South Wales Correspondence SYD21/00674/01	Transport for New South Wales	21 June 2021	D08208977
NSW Rural Fire Service Correspondence A20210526002115-Original-1	NSW Rural Fire Service	15 June 2021	D08187209
Targeted Environmental Site Assessment	ADE Consulting Group	3 September 2021	D08245383
Stormwater Quality Analysis Ref	Neilly Davies	3 February 2021	D08245376

<b>Document Title</b>	<b>Prepared by</b>	<b>Dated</b>	<b>Council Reference</b>
J200117 rev A			

## 2. Amendment of Plans

- a) To minimise the exposure risk to potential soil contaminants not identified during the application process, the approved "Proposed Site Plan" (Plan No. MNT-DA03(C)) must be amended to show a continuation of the existing concrete hardstand above the areas of exposed soil/earth in vicinity of the approved demountable buildings and staff out-door area in the north-eastern part of the development site.
- b) The existing concrete hardstand must be continued to the base of the chain-wire mesh fence along the eastern and north-eastern perimeters of the development site.
- c) The approved "Proposed Site Plan" (Plan No. MNT-DA03(C)) must be amended to remove the reference to the demolished septic tank, as sewerage requirements will be determined at Construction Certificate stage.
- d) These amended plans must be submitted with the application for the Construction Certificate.

## 3. Removal of Trees

- a) This development consent permits the removal of 3 trees numbered Tree 1, Tree 2 and Tree 22 as identified in the Arboricultural Impact Assessment Report ref: 201117-5 Beaumont-AIA, prepared by Urban Arbor dated 17 November 2020.
- b) No consent is granted for the removal of any other trees.

Note: The removal of any other trees from the site requires separate approval by Council in accordance with Part 1B.6 Tree and Vegetation Preservation of the Hornsby Development Control Plan, 2013.

## 4. Section 7.12 Development Contributions

- a) In accordance with Section 4.17(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 7.12 Development Contributions Plan 2019-2029*, \$22,267.60 must be paid towards the provision, extension or augmentation of public amenities or public services, based on development costs of \$2,226,762.
- b) The value of this contribution is current as of 19/07/2021. If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 7.12 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

Where:

**\\$C<sub>PY</sub>** is the amount of the contribution at the date of Payment

**\\$C<sub>DC</sub>** is the amount of the contribution as set out in this Development Consent

**CPI<sub>PY</sub>** is the latest release of the Consumer Price Index (Sydney – All Groups) at the date of Payment as published by the ABS.

**CPI<sub>DC</sub>** is the Consumer Price Index (Sydney – All Groups) for the financial quarter at the date of this Development Consent.

- c) The monetary contributions shall be paid to Council:
- i) Prior to the issue of the Subdivision Certificate where the development is for subdivision; or
  - ii) Prior to the issue of the first Construction Certificate where the development is for building work; or
  - iii) Prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
  - 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.*

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

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

## 5. 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

## 6. 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 assist in ensuring compliance with the conditions of consent and provide monitoring reports as specified by the conditions of consent.
- b) Details of the appointed project arborist must be submitted to Council and the PCA with the application for the construction certificate/subdivision works certificate.

#### **7. Building Code of Australia**

Detailed plans, specifications and supporting information is required to be submitted to the certifying authority detailing how the proposed building work achieves compliance with the *National Construction Code - Building Code of Australia*. All building work must be carried out in accordance with the requirements of the *National Construction Code - Building Code of Australia*.

#### **8. 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](http://www.sydneywater.com.au) under the Building and Development tab.*

#### **9. Car Parking and Deliveries**

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

- a) All parking areas and driveways must be sealed to an all-weather standard, line marked and signposted.
- b) Car parking, loading and manoeuvring areas must be used solely for nominated purposes.
- c) Vehicles awaiting loading, unloading or servicing must be parked on site and not on adjacent or nearby public roads.
- d) All vehicular entry on to the site and egress from the site must be made in a forward direction.

#### **10. 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".

#### **11. 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](http://www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions)) and the following requirements:

- a) An internal stormwater drainage system to service the proposed industrial development with pits being cast in situ or pre-cast concrete pits being used. Drainage will be discharged into an existing sedimentation basin via a bioretention swale. Any overflow is discharged to the southern corner of the property.

## 12. Water Sensitive Urban Design

A Water Sensitive Urban Design (WSUD) is to be constructed generally in accordance with the Stormwater quality analysis report (Ref J200117 rev A) and Proposed stormwater design for alterations & addition at 5 Beaumont Rd Mt Kuring-gai plans (J200117 rev B) prepared by Neilly Davies & Partners. The Water Quality Targets as detailed within the report and Hornsby Development Control Plan 2013 (1C.1.2) are to be achieved in the design and supported by a MUISC-link validation report & MUSIC model.

## 13. Internal Driveway/Vehicular Areas

The driveway and parking areas on site must be designed, constructed and a Construction Certificate issued in accordance with *Australian Standards AS2890.2, AS2890.6, AS3727* and the following requirements:

- a) The driveway be a rigid pavement.
- b) Longitudinal sections along the widened access driveway shall be submitted to the principal certifying authority in accordance with the relevant sections of *AS2890.2*. The maximum grade shall not exceed 15.4% with the maximum changes of grade of 6.25% in 7m of travel for vehicle not exceeding HRV.

## 14. Environmental Management Plan (Potential Unidentified Contamination)

- a) To appropriately manage the risk associated with the potential for unidentified land contamination to be present beneath hardstand areas on the subject premises, a separate Environmental Management Plan (EMP) must be prepared by a certified consultant as recognised under the Certified Environmental Practitioners Scheme - Site Contamination (CEnvP (SC)) or the Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) certification and submitted to Council's Compliance Team via Council's Online Services Portal for review and approval prior to issue of a construction certificate.
- b) The EMP must consider and include appropriate management strategies to address the exposure risk to construction / utility workers involved in excavation and construction works at the site and to future site users, including staff and maintenance contractors. The EMP shall further include the following information:
  - i) Strategies to restrict human access below existing and proposed hardstand areas, including maintenance requirements for hardstand areas and related considerations.
  - ii) Procedures when undertaking necessary subsurface works below hardstand areas, including an Unexpected Finds Protocol incorporating a statement



verifying that, should the presence of asbestos or indicators of soil contamination be identified during construction or operation of the development, the applicant must immediately notify Hornsby Shire Council.

- c) The EMP must be lodged via Council's Online Services Portal at: <https://eservices.hornsby.nsw.gov.au/ePathway/Hornsby/Web/#> and by selecting the following menu options: Applications > New Application > (under 'Application Types') Management Plans.

## 15. Construction Management Plan

To assist in the protection of the public, the environment and Council's assets, a separate Construction Management Plan (CMP) must be prepared by a suitably qualified environmental consultant in consultation with a qualified traffic engineer and AQF Level 5 arborist and submitted to Council's Compliance Team via Council's Online Services Portal for review and approval. The CMP must include the following details:

- a) A *Construction Traffic Management Plan* (CTMP) prepared by a qualified traffic engineer in compliance with the requirements of the Roads and Maritime Services *Traffic control at work sites Manual 2018* that is consistent with all other required CMP and approved plans and includes the following:
- i) The order of construction works and arrangement of all construction machines and vehicles on site during all stages.
  - ii) Swept path analysis for ingress and egress of the site for all stages of works, including: demolition; earthworks; construction, and post-construction fit-out/landscaping (also see Item b)i) .
  - iii) Traffic controls including those used during non-working hours.
  - iv) Pedestrian and cyclist access and safety, demonstrating that two-way traffic in the public road will at all-time be facilitated.
  - v) 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 how this will be achieved.
  - vi) Proposed truck routes to and from the site including details of the frequency of truck movements for all stages of the development.
  - vii) A schedule of maximum truck movements on any given day and during peak commuter periods for all stages of works, as follows:

Stage	Max. number of trucks/ day	Vehicle type/s i.e., SRV, MRV, HRV	Largest vehicle type and length (m)	Time-frame
Demolition				
Earthworks				
Construction				
Fit-out/				

landscaping				
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Period	Construction stage	No. trucks/ period	Vehicle type/s during period	Largest vehicle type and length (m)
Morning peak commuter period: ____ AM to ____ AM	Demolition			
	Earthworks			
	Construction			
	Fit-out/ landscaping.			
Afternoon / evening peak commuter period: ____ PM to ____ PM	Demolition			
	Earthworks			
	Construction			
	Fit-out/ landscaping			

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viii) The source site location of any proposed fill to be imported to the site, for all stages of works.

ix) The CTMP must include statements confirming the following:

- a. Building materials, work sheds, vehicles, machines and the like will not be allowed to remain in the road reserve area without the written consent of Hornsby Shire Council.
- b. An application to Hornsby Shire Council will be made to obtain any required partial Road Closure, Work Zone (if permitted) and Crane Permits. The Plan must detail these requirements.
- c. All vehicles will enter and leave the site in a forward direction and that all demolition and construction vehicles will be contained wholly within the site.
- d. A street 'scrub and dry' 'street-sweeping' service will be in operation to remove sediment tracked by vehicle from the site during all stages of works.
- e. The applicant and all employees of contractors on the site will obey any direction or notice from the Prescribed Certifying Authority or Hornsby Shire Council to ensure compliance with the approved CTMP.

b) A *Construction Management Site Plan* including separate site management plans for each stage of works (demolition, excavation, construction and post-construction fit-out / landscaping works), showing the following:

- i) Site sheds, concrete pump and crane locations, unloading and loading areas, waste and storage areas, ablutions facilities, existing survey marks, vehicle

- entry/exit and turning areas (shown as swept path diagrams), surrounding pedestrian footpaths and proposed hoarding (fencing) locations.
- ii) Tree protection zones (TPZ) and structural root zones (SRZ) of trees required to be retained, inclusive of distances in metres, and details of the site-specific tree protection measures to be implemented as designed by an AQF Level 5 arborist.
- iii) Sediment and erosion control measures to be implemented.
- c) A *Construction Waste Management Plan* detailing the following:
  - i) Details of the importation and excavation of soil and fill, the classification of the fill, disposal methods and authorised disposal depots that will be used for the fill.
  - ii) General construction waste details including construction waste skip bin locations and litter management for workers.
- d) A *Construction Noise and Vibration Management Plan (CNMP)* including an assessment of existing ambient noise and vibration levels within the vicinity of the site and detailing:
  - i) The maximum level of noise and vibration predicted to be emitted during each stage of works and predicted noise levels at nearby sensitive receivers.
  - ii) Details of the site-specific noise and vibration mitigation measures that will be utilised at each stage of works to meet acoustic standards and guidelines with reference to the *Interim Construction Noise Guideline* (State Government, 2009).
  - iii) Details of a complaints handling process for all stages of works including a statement that records of any such complaints, including details of any actions taken in response, will be maintained and provided to Hornsby Shire Council upon request.
- e) Contact information for developers, builder, private certifier and any emergency details during and outside work hours.

The CMP must be lodged via Council's Online Services Portal at: <https://eservices.hornsby.nsw.gov.au/ePathway/Hornsby/Web/#> and by selecting the following menu options: Applications > New Application > (under 'Application Types') Management Plans.

## 16. Oil/ Water Separator

To ensure wastewater generated by the development is adequately treated prior to discharge off-site, a report prepared by a suitably qualified wastewater engineer/consultant must be submitted to the Principal Certifying Authority for their review and approval prior to issue of a construction certificate detailing the design and specifications of an Oil/Water Separator system to service the approved development. The report must:

- a) Indicate the type, capacity and location of the Oil/Water Separator mechanism to be used for the site and details of any pre-treatment devices.

- b) Include plans showing any pipe work to be connected to the Oil/Water Separator system.
- c) Detail the specifications of a bunded area sized to hold a minimum volume equivalent to 110% of separator capacity.
- d) Demonstrate that, when installed, the Oil/Water Separator system will be capable of pre-treating wastewater to the standards imposed by Sydney Water, prior to discharge from the site to sewer.
- e) Details on maintenance and cleaning requirements and an adequate maintenance regime for the system.

<b>REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS</b>
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**17. 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.

**18. 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.

**19. Installation of Tree Protection Measures**

- a) Trees to be retained must have tree protection measures for the ground, trunk and canopy installed by the project arborist in accordance with the Tree Protection Requirements outlined in Section 11 of the Arboricultural Impact Assessment Report, prepared by Urban Arbor, dated 17 November 2020.

- b) The installation of all required tree protection fencing must include shade cloth attached to the fencing to reduce transport of dust, particulates and liquids from entering the tree protection zone.
- c) 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.

## 20. 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*.

## 21. 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.*

## 22. 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

## 23. 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.

#### 24. 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.

#### 25. Works within Tree Protection Zones

- a) Any required 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.
- b) Any 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* and be supervised by the project arborist.
- c) Any necessary excavation within any tree protection zones must be undertaken by sensitive methods such as pneumatic or by hand as prescribed in *AS4970-2007* Sections 4.5.5.
- d) Existing grade must be retained within the TPZ of all trees being retained unless specifically nominated for alteration on the approved plans.

#### 26. 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*.

#### 27. Street Sweeping

During works and until exposed ground surfaces across the site have been stabilised, street sweeping must be undertaken following sediment tracking from the site.

The street cleaning service must utilise a 'scrub and dry' method and be undertaken for the full extent of any sediment tracking.



**28. Compliance with Environmental Management Plan (Potential Unidentified Contamination)**

The Environmental Management Plan, as required by this consent and approved by Council, must be complied with all times during works unless otherwise approved by Council.

**29. 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.

**30. Council Property – Road Reserve**

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.

**31. 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.

**32. Landfill not Permitted**

The importation of fill material associated with earthworks, or structural or engineering works, is not permitted as part of this consent.

**33. Excavated Material**

Any 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 Occupation Certificate.

**34. 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.

**35. Waste Management Details**

Requirements of the approved Waste Management Plan shall be complied with during all site preparation works, demolition and throughout all construction works. When implementing the Waste Management Plan, the developer is to ensure:

- a) The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the Protection of Environment Operations Act 1997.

- b) All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*.
- c) Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by *SafeWork NSW*.
- d) All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it.
- e) All materials and resources that are to be stored on site during construction works are contained on the site. The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses.
- f) The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works.
- g) Additionally, written records of the following items must be maintained during the removal of any waste from the site and such information submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works:
  - i) The identity of the person removing the waste.
  - ii) The waste carrier vehicle registration.
  - iii) Date and time of waste collection.
  - iv) A description of the waste (type of waste and estimated quantity).
  - v) Details of the site to which the waste is to be taken.
  - vi) The corresponding weighbridge tip docket/receipt from the site to which the waste is transferred (noting date and time of delivery, description (type and quantity) of waste).
  - vii) Whether the waste is expected to be reused, recycled or go to landfill.

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

### **36. 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.

#### REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

##### 37. Certification of WSUD Facilities

Prior to the issue of an Occupation Certificate a certificate from a Civil Engineer is to be obtained stating that the WSUD facilities have been constructed and will meet the water quality targets as specified in the Hornsby Development Control Plan 2013.

##### 38. 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 bioretention swale and sedimentation basin, within the area in favour of Council in accordance with Council's prescribed wording. The position of the bioretention swale and sedimentation basin is to be clearly indicated on the title.
- b) To register the positive covenant restriction, the restriction on the use of land "*works-as-executed*" details of the bioretention swale and sedimentation basin must be submitted verifying work have been constructed in accordance with the design requirements. The details must show the levels together with dimensions 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.*

##### 39. Litter and Illegal Dumping Management

A Litter and Illegal Dumping Management Plan must be submitted to Council for approval prior to the issue of any Occupation Certificate. The Litter and Illegal Dumping Management Plan must include mitigation (including but not limited to daily litter picking patrols and removal of illegally dumped material) and prevention strategies (including but not limited to security cameras) and must cover both the subject site and adjacent land.

*Note: The Litter and Illegal Dumping Management Plan can be sent to Council via email via [hsc@hornsby.nsw.gov.au](mailto:hsc@hornsby.nsw.gov.au) with attention to the Waste Management team.*

##### 40. Damage to Council Assets

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

**41. External Lighting**

- a) To protect the amenity of adjacent premises, all external lighting must be designed and installed in accordance with *Australian Standard AS4282 Control of the Obtrusive Effects of Outdoor Lighting*.
- b) Certification of compliance with this Standard must be obtained from a suitably qualified person and submitted to the PCA with the application for the Occupation Certificate.

**42. Wastewater Connection to Sydney Water**

All Wastewater generated on site including waste from amenities buildings, truck washing operations, and waste water from the oil / water separator must be connected to Sydney Water's sewerage system.

**43. 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"**.

**44. Replacement Tree Requirements**

To maintain local canopy cover, trees approved for removal under this consent must be offset through replacement planting of a minimum of 4 trees.

- a) All replacement plantings must be species Indigenous to the Hornsby Shire.
- b) Location and Size of Plantings
  - i) All replacement trees must be located 4 metres or greater from the foundation walls of the approved development.
  - ii) The pot size of the replacement tree(s) must be a minimum 25 litres.
  - iii) All replacement tree(s) must be maintained until they reach the height of 3 metres.
  - iv) All replacement trees must have the potential to reach a mature height greater than 8 metres.
  - v) All tree stock must meet the specifications outlined in '*Specifying Trees*' by Ross Clark, (Publisher NATSPEC Books).
  - vi) Planting methods must meet professional (best practice) industry standards.

**45. Final Certification Arborist**

- a) A suitably qualified person holding a certificate III in Horticulture must submit to the principal certifying authority a Statement/or/Certification confirming all Tree Replacement plantings required by this consent have been adequately established.

- 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.*

#### **46. Asbestos Clearance Certificate**

Should any asbestos be encountered during demolition or construction works, a licenced asbestos assessor is required to provide a Clearance Certificate to the Certifier prior to the issue of an Occupation Certificate, certifying that the asbestos has been removed and appropriately disposed of, and the site is now suitable for its approved use.

#### **47. Submission of Excavated Material Tipping Dockets to Principal Certifying Authority**

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

#### **48. Environmental Management and Protection**

To protect the water quality of the downstream environment and provide for appropriate environmental management during operation of the development, the following requirements must be implemented prior to the issue of an Occupation Certificate:

- a) The Oil/Water Separator system designed and certified by a suitably qualified person and approved by the Principal Certifying Authority must be installed to service the development. The approved Oil/Water Separator shall be connected via Trade Waste Agreement to Sydney Water's sewerage system in accordance with Sydney Water's requirements.
- b) Waste water from the truck wash shall be directed to the approved Oil/Water Separator system.
- c) Designated chemical, fuel and oil storage areas must be provided within the Work shop + Bin store building that:
  - i) Have impervious flooring/base.
  - ii) Are contained within a bunded area of sufficient capacity to hold 110% of the largest vessel stored within the bund.
  - iii) Are designed and installed in accordance with pages 40–44 of the Department of Environment and Climate Change NSW's document titled: *Storing and Handling Liquids: Environmental Protections, Participants Manual*, May 2007.
- d) The floor of the Work shop + Bin store building must be appropriately sealed and bunded to prevent spills within the workshop area discharging from the building.
- e) Clearly labelled and appropriately stocked spill kits must be provided within the Work shop + Bin store building to ensure personnel can readily access spill containment

and clean-up equipment and materials in the event of any spill. Spill kits must be clearly distinguishable from any other bin/s to be kept within the Work shop + Bin store building.

- f) All drains on the development site that connect to the stormwater system must clearly be marked 'stormwater drain' to increase awareness of the pollution risk and enable immediate identification and efficient response in the event of a spill or pollution incident.
- g) The 'Resident Recycling Dropoff' area shall be located over a sealed hardstand area that is appropriately bunded to provide adequate containment of waste substances in the event of any spills.

#### 49. Waste Management Details

The following waste management requirements must be complied with:

- a) A report must be prepared by an appropriately qualified person, certifying the following:
  - i) A comparison of the estimated quantities of each demolition and construction waste type against the actual quantities of each waste type.  
*Note: Explanations of any deviations to the approved Waste Management Plan is required to be included in this report.*
  - ii) That at least 60% of the waste generated during the demolition and construction phase of the development was reused or recycled.  
*Note: If the 60% diversion from landfill cannot be achieved in the Construction Stage, the Report is to include the reasons why this occurred and certify that appropriate work practices were employed to implement the approved Waste Management Plan. The Report must be based on documentary evidence such as tipping dockets/receipts from recycling depots, transfer stations and landfills, audits of procedures etc. which are to be attached to the report.*
  - iii) All demolition and construction waste was taken to site(s) that were lawfully permitted to accept that waste.
- b) Space is to be allocated inside each demountable building for the interim storage of waste, with two separate 15-240 litre containers installed, one each for garbage and recyclable materials.

#### 50. Certification of RFS Requirements

A Certificate prepared by a BPAD accredited Bushfire Consultant is to be provided to the Principal Certifying Authority (PCA) certifying the completion of all works required by the NSW RFS conditions of concurrence prior to the issue of the Occupation Certificate.

### OPERATIONAL CONDITIONS

#### 51. Use of Premises



- a) The development approved under this consent shall be used for a depot and a waste transfer station and not for any other purpose without Council's separate written consent.
- b) The waste transfer station approved under this consent must not process any more than 6000 Tonne of waste in any 12-month period.

**52. Ongoing Protection of Bushland**

The natural bushland areas of the site must remain undisturbed and be protected in perpetuity in accordance with the following requirements:

- a) The bushland area is to be fenced off with post and wire (or similar) fencing to prevent vehicular access.
- b) The bushland area is to be kept free of noxious weeds using recognised bush regeneration methods in accordance with *'Recovering bushland on the Cumberland Plain: Best practice guidelines for the management and restoration of bushland – Department of Conservation 2005'*.
- c) Machinery and fertilizer must not be used in the bushland area for maintenance purposes.

**53. Vegetation Maintenance**

Vegetation, landscaping and fencing must be maintained in a manner that does not restrict sightlines for any vehicle entering or existing the site.

**54. Waste Management – Ongoing Operations**

The waste management on site must be in accordance with the following requirements:

- a) There must be a sufficient number of bins on site to contain the volume of waste and recycling expected to be generated between collection services.
- b) Adequate signage is to be provided and maintained on how to use the waste management system and what materials are acceptable for recycling within all waste storage areas of the development. Signage is also to be provided and maintained which clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin.
- c) All surfaces trafficable by the waste collection vehicles must be kept in good and substantial repair.
- d) The tenant must ensure that the approved Litter and Illegal Dumping Management Plan is effectively implemented. Sufficient resources must be provided for the management of litter and illegally dumped material both on and off site, to be carried out to a satisfactory standard.

**55. Operation of Waste Transfer Facility**

- a) Approval for operation of a Waste Transfer Facility at the above premises applies only to the collection, handling and temporary storage on-site of waste deposited by the community within the designated 'Resident Recycling Dropoff' location as shown on the approved site plan.

- b) No waste is to be stored in any vehicles parked overnight on the premises, with exception of waste collected from the designated 'Resident Recycling Dropoff' location and awaiting off-site transfer to an approved resource recovery facility.
- c) The premises must not be used to carry out an activity declared to be a scheduled activity in accordance with Schedule 1 of the *Protection of the Environment Operations Act 1997*.

**56. Hours of Operation Workshop and Truck Wash**

The hours of operation of the Workshop and Truck wash are restricted to:

- a) 7am to 10pm, daily.
- b) Anytime, upon Hornsby Shire Council's written confirmation that an acoustic report prepared by a suitably qualified Acoustic Consultant and member of the Association of Australasian Acoustical Consultants has been submitted to the Council, demonstrating to Council's satisfaction that operation of the workshop and truck wash will not cause a sound pressure level (measured as the LAeq,15 minute) that exceeds 38dB(A) any time between 10pm and 7am (8am on Sunday), assessed at the reasonably most-affected residence(s).
- c) Terms used in this condition have the same meaning as in the NSW Environment Protection Authority's Noise Policy for Industry ("the NSW EPA's Noise Policy for Industry") current at the time of this consent.
- d) The above emission limits include any corrections for audible characteristics in accordance with the NSW EPA's Noise Policy for Industry.

**57. Noise - Operational**

All noise generated by the development must be suitably attenuated to comply with the following criteria:

- a) Operation of the development must not cause a sound pressure level (measured as the LAeq, 15 minute) at any reasonably most-affected residence(s) that exceeds:
  - i) 38dB(A), between 10pm and 7am (8am on Sunday).
  - ii) The background level (measured as the LA90, 15 minutes in the absence of the noise under consideration) by more than 5dB(A), between 7am and 10pm (8am on Sunday).
- b) The above emission limits include any corrections for audible characteristics in accordance with the NSW EPA's Noise Policy for Industry.
- c) Terms used in this condition have the same meaning as in the NSW Environment Protection Authority's Noise Policy for Industry.

**58. Comply with Environmental Management Plan (Potential Unidentified Contamination)**

- a) The Environmental Management Plan required by this consent and as approved by Council must be complied with all times unless otherwise approved by Council. Changes to the approved Environmental Management Plan must not be made without the written consent of Council.

- b) A copy of the approved Environmental Management Plan must be kept on site and at all-times be available to personnel and contractors.

**59. Environmental Management and Protection – Ongoing**

- a) Environmental management and protection measures provided to the development as specified by this consent must all-times be maintained in effective working order.
- b) Service/maintenance works to vehicles must only be carried out within the Work shop + Bin store building.
- c) All bins, chemicals/hazardous substances and vehicle parts must be stored within the Work shop + Bin store building.

**CONDITIONS OF CONCURRENCE - TRANSPORT FOR NEW SOUTH WALES**

The following conditions of consent are from the nominated State Agency pursuant to Section 4.13 of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

**60. TfNSW Condition 1**

TfNSW has previously resumed and dedicated a strip of land as road along the Pacific Highway frontage of the subject property, as shown by grey colour on the attached Aerial – “X”. All buildings and structures (including signage), together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along Pacific Highway boundary.

**CONDITIONS OF CONCURRENCE - NSW RURAL FIRE SERVICE**

The following conditions of consent are from the nominated State Agency pursuant to Section 4.13 of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

**61. Asset Protection Zones**

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions shall apply:

- a) From the start of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire property must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*. When establishing and maintaining an IPA the following requirements apply:
  - i) Tree canopy cover should be less than 15% at maturity.
  - ii) Trees at maturity should not touch or overhang the building.
  - iii) Lower limbs should be removed up to a height of 2 metres above the ground.
  - iv) Tree canopies should be separated by 2 to 5 metres.
  - v) Preference should be given to smooth barked and evergreen trees.

- vi) Large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings.
- vii) Shrubs should not be located under trees.
- viii) Shrubs should not form more than 10% ground cover.
- ix) Clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- x) Grass should be kept mown (as a guide grass should be kept to no more than 100 mm in height).
- xi) Leaves and vegetation debris should be removed.

## 62. Construction Standards

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions shall apply:

- a) New construction of proposed Workshop and Bin Store, office block, amenities block, and lunch room must be undertaken using non-combustible materials.
- b) The proposed Workshop and Bin Store, office block, amenities block, and lunch room must provide ember protection by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

- 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). (HDGP 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](http://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**

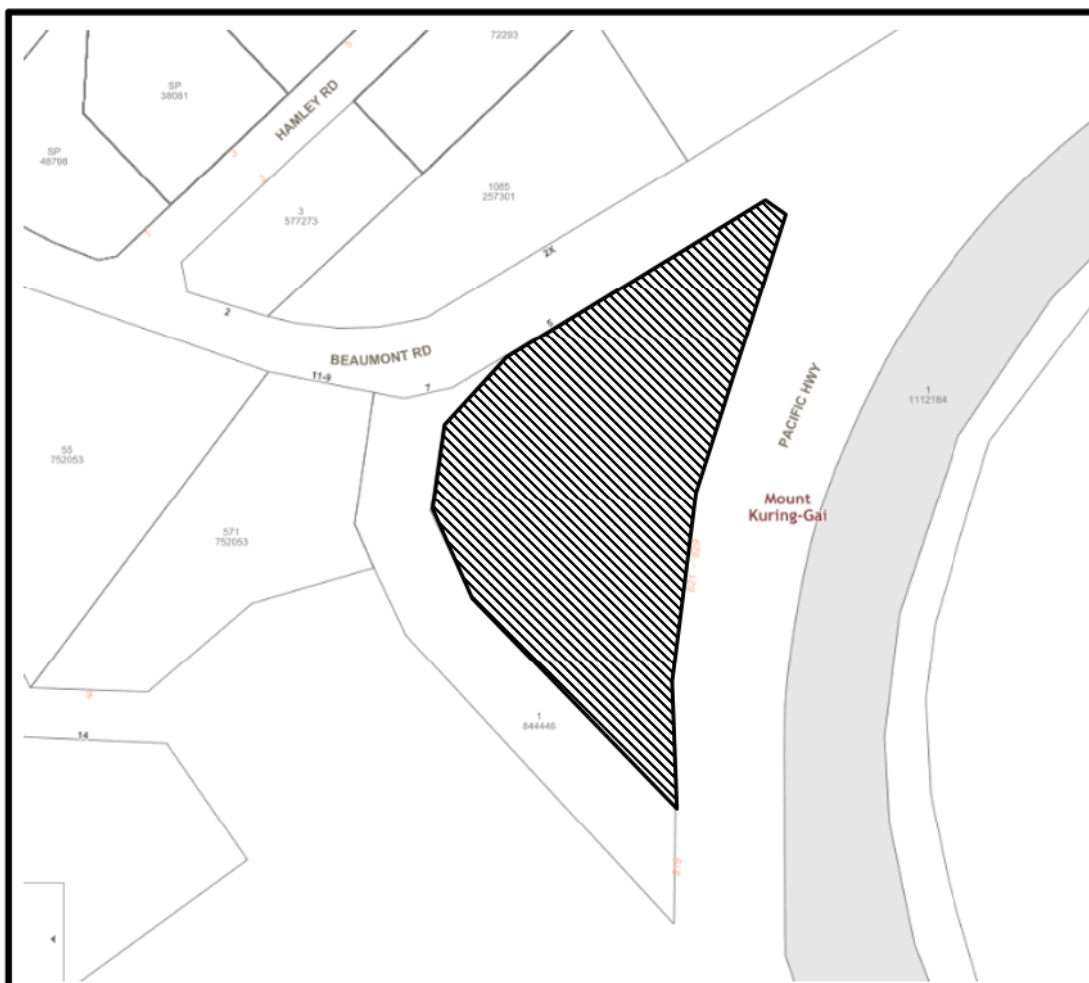
Should asbestos or asbestos products be encountered during demolition or construction works, you are advised to seek advice and information prior to disturbing this material. It is recommended that a contractor holding an asbestos-handling permit (issued by *SafeWork NSW*) be engaged to manage the proper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

[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

[www.adfa.org.au](http://www.adfa.org.au)

[www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)

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



**LOCALITY PLAN**

**DA/471/2021**

**5 Beaumont Road Mount Kuring-Gai**

**ATTACHMENT 1 - ITEM 3**



## CONSULTANT ASSESSMENT REPORT

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<b>DA No:</b>	DA/471/2021 (Lodged on 14/05/2021)
<b>Description:</b>	Industrial Development – Truck Depot and Community Recycling Facility
<b>Property:</b>	Lot 1124 DP822257, No. 5 Beaumont Road, Mount Kuring-gai
<b>Applicant:</b>	Cleanaway Operations Pty Ltd
<b>Owner:</b>	Hornsby Shire Council
<b>Estimated Value:</b>	\$2,226,762

- The application involves construction of a truck depot and community recycling facility on a vacant industrial lot.
- The proposal complies with the relevant development standards and planning instruments including state environmental planning policies, *Hornsby Local Environmental Plan 2013* and Hornsby Development Control Plan.
- No submissions have been received in respect of the application.
- The application is required to be determined by the Hornsby Council Local Planning Panel as the proposal is on land owned by Hornsby Shire Council.
- It is recommended that the application be approved.

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### BACKGROUND

The site was previously used as a concrete batching plant associated with the construction of the Northconnex tunnel connecting the M1 and M2 Motorways. The majority of structures on the site have been demolished.

### SITE

The subject site is 5 Beaumont Road, Mount Kuring-gai (formally known as Lot 1124 DP822257). It has a 186m north-westerly street frontage to Beaumont Road and a 257m easterly street frontage to the Pacific Highway. The site is approximately 16,400m<sup>2</sup>.

The site is generally flat, with the highest point in the east being RL 220.7 and the lowest point at the onsite detention basin being RL 218.66.

The majority of the site has been cleared of vegetation and is covered with concrete hardstand. There are strips of vegetation approximately 5-8m wide along the eastern boundary, 10-15m wide along the north-western boundary, and up to 26m wide along the south-western boundary.

The site is owned by Hornsby Shire Council and the northern corner of the site (to the east of the driveway) will continue to be used by Council as a storage yard. The main part of the site is vacant and is fully fenced.

The site is the first property on the left as you enter the Mount Kuring-gai industrial area from the Pacific Highway. There are various industrial uses to the west of the site, the closest being Trakka Caravans, Anglomoil (lubricant manufacturer), Industrial Measurement Solutions and Tubular Suspension Systems. To the east of the site is the transport corridor containing the Pacific Highway, Sydney to Newcastle Rail Line, and M1 Pacific Motorway. To the south is more Council-owned land, and beyond that is Berowra Valley National Park, which generally surrounds the industrial area, while Kuring-gai Chase National Park surrounds the transport corridor.

## PROPOSAL

The application proposes the construction of a new truck depot for Cleanaway which will include a workshop, bin store, truck wash, office, amenities and resident recycling drop-off area. All trucks will return to the site empty and the recycling dropped off by residents will be collected by one of the site trucks and taken to a Materials Resource Facility.

The main building is approximately 504m<sup>2</sup> with a height of 9.25m and includes a workshop for vehicle repairs and a storage area for resident bins. A truck wash facility will be attached to the north side of the main building. The eastern side of the building will have roller doors and a 3m deep awning.

There are ten staff parking spaces on the eastern side of the site, adjacent to the demountable containing the office, amenities and lunchroom, which will be connected by a 3m wide covered walkway. There is also a staff outdoor area on the northern side of the lunchroom.

There is a total of 33 truck parking spaces around the southern perimeter of the site.

Vehicles enter the site through Gate 1 at the north of the site and exit through Gate 2 to the south. While staff vehicles and trucks will go to the left, residents are directed to the right to the recycling drop-off area, which will be fenced off separately from the depot.

Remnant rainwater tanks and concrete walls in the west of the site would be demolished. One tank will be relocated adjacent to the truck wash. Several new stormwater pits will be installed.

Three trees are proposed for removal as part of 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 *North District Plan*, by providing additional services to support a growing population.

## 2. STATUTORY CONTROLS

Section 4.15(1)(a) requires the consent authority 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 *Hornsby Local Environmental Plan 2013 (HLEP)* applies to all land within Hornsby Shire. An assessment of the development against the relevant sections of the *HLEP* is provided below.

#### 2.1.1 Zoning of Land and Permissibility

The subject land is zoned IN1 General Industrial under the *HLEP*. The objectives of the 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 proposal is consistent with the objectives as it is an industrial use which will generate employment and also provides a recycling service that meets the day-to-day needs of local residents and workers.

The proposed development is defined as a depot and a waste or resource transfer station:

**depot** means a building or place used for the storage (but not sale or hire) of plant, machinery or other goods (that support the operations of an existing undertaking) when not required for use, but does not include a farm building.

**waste or resource transfer station** means a building or place used for the collection and transfer of waste material or resources, including the receipt, sorting, compacting, temporary storage and distribution of waste or resources and the loading or unloading of waste or resources onto or from road or rail transport.

*Note— Waste or resource transfer stations are a type of waste or resource management facility—see the definition of that term in this Dictionary.*

Both uses are permissible in the zone with consent.

**2.1.2 Minimum lot size**

There is no minimum lot size for the site under Clause 4.1 of the *HLEP* and no change is proposed to the existing lot size.

**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 14.5m. At 9.25m, the proposal complies with this provision.

**2.1.4 Floor space ratio**

Clause 4.4 of the *HLEP* provides a maximum floor space ratio of 1:1 for the subject site. With a total building area of 504m<sup>2</sup> and a site area of 16,400m<sup>2</sup>, the proposed floor space ratio is 0.03:1, which complies with this provision.

**2.1.5 Heritage Conservation**

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

**2.1.6 Earthworks**

Clause 6.2 of the *HLEP* states that consent is required for proposed earthworks on 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.

Assessment of the proposed works and excavation concludes that the proposal is satisfactory subject to conditions of consent.

**2.2 State Environmental Planning Policy No. 55 Remediation of Land**

Clause 7(1) of *State Environmental Planning Policy No. 55 Remediation of Land (SEPP 55)* requires that a Consent Authority must not grant development consent on land unless:

- a) *it has considered whether the land is contaminated, and*
- b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

A Targeted Environmental Investigation prepared by ADE was included with the development application. The report concluded that the concentrations of chemical contamination within surface fill materials meet the adopted site assessment criteria and do not pose an unacceptable risk to human health; that asbestos fibre cement was observed at three locations in the south-western section of the site; and that conditions should be reassessed at the start/end of any operations on site.

The site is considered suitable for the proposed use as it is an industrial zoned lot nominated for an industrial use, site disturbance will be minimal, the ADE report concluded that, with the exception of asbestos, the concentrations of potential soil contaminants in the soil samples collected were below the assessment criteria, and conditions of consent can appropriately manage risk. Council's Environmental Protection Division reviewed the proposal and recommended conditions of consent to manage potential contamination hazards, including concrete hardstand to be installed above exposed soil surfaces in the vicinity of the proposed demountable buildings and staff outdoor area, an additional Environmental Management Plan to be prepared prior to issue of a Construction Certificate, and correct procedures to be followed in the event that asbestos is discovered.

### **2.3 State Environmental Planning Policy (Infrastructure) 2007**

Division 23 of the *Infrastructure SEPP* relates to waste or resource management facilities. The SEPP allows for such facilities in various rural, industrial and special purpose zones and on any land where industry, business premises or freight transport facilities are permitted. The SEPP allows for some types of exempt development, sets out additional permitted uses for a depot in Castlereagh, and sets controls on landfill development, none of which apply to the subject site or proposed development.

Clause 104 of the SEPP identifies waste or resource management facilities as traffic generating development that must be referred to Transport for NSW (TfNSW) for comment during assessment. TfNSW reviewed the proposal and recommended a condition of consent regarding the dedicated strip of land along Pacific Highway. This condition has been included in the recommended conditions of development consent in Schedule 1 of this report.

### **2.4 Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River (No. 2 - 1997)**

The site is located within the catchment of the Hawkesbury Nepean River. Part 2 of this Plan contains general planning considerations and strategies requiring the consent authority 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 requirements of the Policy.

Under Part 3 of *SREP 20*, consent is required for waste management facilities or works and the consent authority must consider:

- (a) *Any potential for groundwater contamination.*
- (b) *The adequacy of the proposed leachate management system and surface water controls.*
- (c) *The long-term stability of the final landform and the adequacy of the site management plan.*
- (d) *If extraction of material is involved in the creation or other development of the waste management site, whether the extractive operation will have an adverse impact on the river system.*

The use of the site is primarily for the overnight storage of trucks and the storage of waste bins to be distributed to residents. The resident recycle drop-off point will store recyclables only temporarily. Recyclables will be deposited directly into purpose-built bins which will be collected by Cleanaway and taken to a recycling facility. There is no risk of groundwater or surface water contamination from this. The proposal will be built on existing concrete hardstand so there will be no extraction of material.

## 2.5 State Environmental Planning Policy No. 64 Advertising and Signage

The proposed signs have been assessed against the requirements of *State Environmental Planning Policy No. 64 Advertising and Signage (SEPP 64)*. This Policy provides state-wide planning controls for advertising signs and prevails over other environmental planning instruments including the *HLEP* and the Hornsby Development Control Plan 2013. The aims of the Policy are to ensure that advertising and signage is compatible with the desired amenity and visual character of an area, to provide effective communication in suitable locations and to ensure signage is of high quality design and finish. The proposed signs are 'business identification sign' as defined under *SEPP 64*.

Council's assessment of the proposal with respect to the criteria in Schedule 1 of *SEPP 64* is provided below. There are a total of six signs: one Cleanaway business identification sign on the street frontage, directional signs for Cleanaway, the council depot and the recycling drop-off point, and entry/exit signs.

State Environmental Planning Policy No. 64		
Control	Requirement	Comment
<b>Schedule 1 – Assessment Criteria (to be considered for all advertising structures including “business identification signs”)</b>		
Character of the area	Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?  Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	Yes - The signage would be in keeping with the existing and desired future character of the area of Hornsby.  Not applicable – there is no signage theme in the locality.
Special areas	Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	No – the signage is limited in size and number and is not garish or illuminated. The area is not environmentally sensitive and there are no residences in the area.
Views and vistas	Does the proposal obscure or compromise important views?  Does the proposal dominate the skyline and reduce the quality of vistas?  Does the proposal respect the viewing rights of other advertisers?	No important views would be impacted.  The proposal does not dominate the skyline or impact on vistas. The height and scale of the signage is compatible with the streetscape.  The signage would not impact on the viewing rights of existing nearby signage.
Streetscape, setting or landscape	Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Yes - The scale, proportion and form is appropriate for the streetscape.

	<p>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</p> <p>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</p> <p>Does the proposal screen unsightliness?</p> <p>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</p> <p>Does the proposal require ongoing vegetation management?</p>	<p>Yes - The proposed signs contribute to the visual interest of the streetscape.</p> <p>Not applicable – there is no existing signage.</p> <p>Not applicable.</p> <p>No – the signage is affixed to existing fencing.</p> <p>No vegetation management is required.</p>
Site and building	<p>Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</p> <p>Does the proposal respect important features of the site or building, or both?</p> <p>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</p>	<p>Yes - The scale of the signage is considered appropriate given the scale of the proposed building and the industrial character of the locality.</p> <p>The proposal respects the site, particularly the vegetated street setback, by keeping signage to a minimum.</p> <p>Not applicable.</p>
Associated devices and logos	<p>Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</p>	<p>There are no devices, platforms, overhangs or protrusions as part of this proposal.</p>
Illumination	<p>Would illumination result in unacceptable glare?</p> <p>Would illumination affect safety for pedestrians, vehicles or aircraft?</p> <p>Would illumination detract from the amenity of any residence or other form of accommodation?</p> <p>Can the intensity of the illumination be adjusted, if necessary?</p> <p>Is the illumination subject to a curfew?</p>	<p>Not applicable – no illumination proposed.</p>

Safety	Would the proposal reduce the safety for any public road?	No – the signage would not include flashing or moving images.
	Would the proposal reduce the safety for pedestrians or bicyclists?	No
	Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No - The signage would not obscure sightliness from public areas.

The proposal satisfies the assessment criteria under Schedule 1 and is consistent with the objectives of SEPP 64.

## 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:

HDCP – Part 5 – Industrial			
Control	Proposal	Requirement	Complies
Floor Space Ratio	0.05:1	1:1	Yes
Height	9.4m	14.5m	Yes
Site Coverage	5.4%	50%	Yes
Ancillary Office Space (maximum % of GFA)	9.4%	30%	Yes
Setbacks			
- Front	31.5m	10m	Yes



- Side	6.9m	5m	Yes
- Rear	44.0m	10m	Yes
Landscaped Area (% of setback area)	80%	50%	Yes
Open Space			
- Area	16m <sup>2</sup>	10m <sup>2</sup>	Yes
- Sunlight to 50% of area			Yes
Car Parking (DCP Part 1)	10 spaces	8 spaces	Yes
- Accessible spaces	1%	1-2%	Yes

As detailed in the above table, the proposed development complies with the prescriptive measures within the HDCP. A brief discussion on compliance with relevant performance requirements and Part 1C General Controls is provided below.

#### 2.7.1 Open Space

The DCP states that the required open space is 1m<sup>2</sup> per employee with a minimum of 10m<sup>2</sup> and notes that the number of employees is to be calculated based on average employee density data. Using this calculation, the number of employees would be 16, but the actual number is seven. The proposed 10m<sup>2</sup> is considered to be sufficient.

#### 2.7.2 Vehicle Access and Parking

In accordance with the DCP, vehicle access is via Beaumont Road rather than the Pacific Highway, and parking is behind the building line of the workshop. Substantial vegetation around the site perimeter screens the parking from the street. It is noted that the DCP requires 1 bicycle parking space per 600m<sup>2</sup> GFA. The proposal does not include any formal bicycle parking but given the size of the site, workshop and demountable buildings, staff would easily be able to store bicycles.

#### 2.7.3 Design Details

The DCP requires buildings in the Mount Kuring-gai area to have recessive colours and external finishes consistent with nearby bushland. The proposed colour, Deep Ocean, is considered acceptable.

#### 2.7.4 Signage

The proposed signage is consistent with Part 1 of the DCP as it relates to the use of the premises, is limited in number, and does not compromise road or pedestrian safety. Signage is limited to one business identification sign on the street frontage, identification signs for Cleanaway, the council depot and the recycling drop-off point, and entry/exit signs.

### 2.7.5 Bushfire

Under Part 1 of the DCP, development on land identified as bushfire prone should comply with Planning for Bushfire Protection (2006). The proposal was referred to the Rural Fire Service for comment, as detailed in section 5.2.2 below.

### 2.8 Section 7.12 Contributions Plan

Hornsby Shire Council Section 7.12 Contributions Plan 2019-2029 applies to the development as the estimated costs of works is greater than \$100,000. Should the application be approved, an appropriate condition of consent is recommended requiring the payment of a contribution in accordance with the Plan.

## 3. 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”*.

### 3.1 Natural Environment

#### 3.1.1 Tree and Vegetation Preservation

The plans accompanying the Development Application show that some vegetation will be cleared adjacent to the entry driveway in order to allow for separate site access for the resident recycling drop-off point. The Arboricultural Report accompanying the Development Application identifies 23 trees on the north-western frontage of the site in the vicinity of works, 20 of which are not encroached on by the development and are proposed to be retained. Tree number 1, a *Populus spp*, is in the footprint of the proposed widened driveway. Tree number 2, an *Erythrina cristagalli*, is an exempt species and is proposed to be removed as the new driveway encroaches into the Tree Protection Zone by 20% and into the Structural Root Zone. Tree 22, *Ligustrum lucidum*, is proposed for removal as it is a noxious weed.

It is considered that the removal of the trees is acceptable in the circumstances. One tree is a noxious weed and the other two must be removed to facilitate safe access to the site. Tree removal is minimal – early designs for this proposal placed the recycling drop-off point on the existing stand of trees on the site frontage which would have resulted in many more trees being removed.

#### 3.1.2 Stormwater Management

The Development Application was accompanied by stormwater plans prepared by Neilly Davies Consulting Engineers. Council's Development Engineer reviewed the relevant plans and recommended conditions of consent regarding stormwater drainage, with drainage discharged into an existing sedimentation basin via a bioretention swale, with overflows discharged to the southern corner of the property.

#### 3.1.3 Water Quality

Council's Development Engineer reviewed the proposal and recommended conditions of consent to achieve Water Sensitive Urban Design.

Council's Environment Protection Division has recommended conditions of consent requiring a report with specifications of an oil/water separator to service the proposed development.

### **3.2 Built Environment**

#### **3.2.1 Traffic**

A Traffic and Parking Impact Assessment has been submitted with the proposal. This report concludes that the proposed parking provision is sufficient for the number of staff and type of operation, the proposed accesses comply with the relevant Australian Standards, internal circulation is appropriate, and traffic generation will be minimal with no undue impacts on local roads.

Council's Traffic Engineer recommended approval of the proposal on traffic and parking grounds and included conditions of consent.

#### **3.2.2 Noise Impacts**

Council's Environmental Protection Division recommended a suite of conditions of consent to manage noise impacts.

#### **3.2.3 Waste Management**

Council's Waste Management Services recommended approval of the development application and provided recommended conditions of consent.

### **4. SITE SUITABILITY**

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

#### **4.1 Bushfire Risk**

The land is identified as being subject to bushfire risk. The proposal was referred to the RFS as detailed in Section 5.2.2 of this report, who recommended approval subject to conditions.

### **5. PUBLIC PARTICIPATION**

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

#### **5.1 Community Consultation**

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 18 May and 8 June 2021 in accordance with the Hornsby Community Engagement Plan. During this period, Council received no submissions. The map below illustrates the location of those nearby landowners who were notified.

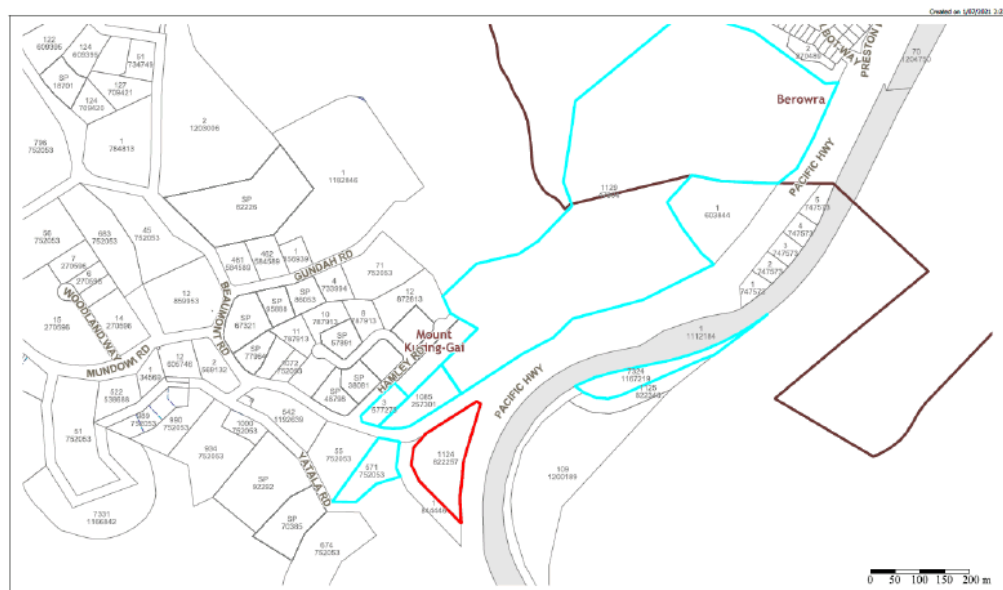


Figure 1: Notification Map

## 5.2 Public Agencies

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

### 5.2.1 Transport for NSW

Transport for NSW raised no concerns with the proposed development and recommended a condition of consent maintaining the dedicated strip of land along Pacific Highway.

### 5.2.2 Rural Fire Service

The proposal was referred to the Rural Fire Service, who recommended standard conditions of consent, briefly: the property is to be managed as an Inner Protection Area, new construction to be using non-combustible materials, and openings in the buildings to be covered with metal screen mesh.

## 6. THE PUBLIC INTEREST

Section 4.15(1)(e) of the Act requires the consent authority 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.

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**CONCLUSION**

The application proposes construction of a truck depot which will include a workshop, bin store, truck wash, office, amenities and resident recycling drop-off area.

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

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

The reasons for this decision are:

- The proposed development 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 trees and vegetation, stormwater, water quality, traffic, noise and waste management.

*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 Nicola Neil, an independent planning consultant at Octagon Planning.

**RECOMMENDATION**

THAT Development Application No. DA/471/2021 for a truck depot and community recycling drop-off point at Lot 1124 DP822257, No. 5 Beaumont Road, Mount Kuring-gai, be approved subject to the conditions of consent detailed in Schedule 1 of this report.

**Schedule 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, 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:

<b>Plan No.</b>	<b>Plan Title</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Council Reference</b>
SW02	Stormwater Management Plan Part A	Neilly Davies Consulting Engineers	17/02/2021	
SW03	Stormwater Management Plan Part B	Neilly Davies Consulting Engineers	17/02/2021	
MNT-DA01(B)	Location Plan	Cleanaway	20/08/2021	
MNT-DA02(A)	Existing Site Plan	Cleanaway	26/03/2021	
MNT-DA03(C)	Proposed Site Plan	Cleanaway	26/08/2021	
MNT-1.04(C)	Floor Plan, Roof Plan	Cleanaway	26/08/2021	
MNT-1.05(B)	Section, Elevations	Cleanaway	20/08/2021	
MNT-1.06(A)	Demountables	Cleanaway	26/03/2021	
MNT-1.07(A)	Signage Schedule	Cleanaway	26/03/2021	

<b>Document Title</b>	<b>Prepared by</b>	<b>Dated</b>	<b>Council Reference</b>
Arboricultural Impact Assessment Report Ref: 201117-5 Beaumont-AIA	Urban Arbor	17 November 2020	D08168264
Transport for New South Wales Correspondence SYD21/00674/01	Transport for New South Wales	21 June 2021	D08208977
NSW Rural Fire Service Correspondence A20210526002115-Original-1	NSW Rural Fire Service	15 June 2021	D08187209
Targeted Environmental Site Assessment	ADE Consulting Group	3 September 2021	D08245383
Stormwater Quality Analysis Ref J200117 rev A	Neilly Davies	3 February 2021	D08245376

**2. Amendment of Plans**

- a) To minimise the exposure risk to potential soil contaminants not identified during the application process, the approved "Proposed Site Plan" (Plan No. MNT-DA03(C)) must be amended to show a continuation of the existing concrete hardstand above the areas of exposed soil/earth in vicinity of the approved demountable buildings and staff outdoor area in the north-eastern part of the development site.
- b) The existing concrete hardstand must be continued to the base of the chain-wire mesh fence along the eastern and north-eastern perimeters of the development site.
- c) The approved "Proposed Site Plan" (Plan No. MNT-DA03(C)) must be amended to remove the reference to the demolished septic tank, as sewerage requirements will be determined at Construction Certificate stage.
- d) These amended plans must be submitted with the application for the Construction Certificate.

**3. Removal of Trees**

- a) This development consent permits the removal of 3 trees numbered Tree 1, Tree 2 and Tree 22 as identified in the Arboricultural Impact Assessment Report ref: 201117-5 Beaumont-AIA, prepared by Urban Arbor dated 17 November 2020.
- b) No consent is granted for the removal of any other trees.

*Note: The removal of any other trees from the site requires separate approval by Council in accordance with Part 1B.6 Tree and Vegetation Preservation of the Hornsby Development Control Plan, 2013.*

**4. Section 7.12 Development Contributions**

- a) In accordance with Section 4.17(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 7.12 Development Contributions Plan 2019-2029*, \$22,267.60 must be paid towards the provision, extension or augmentation of public amenities or public services, based on development costs of \$2,226,762.
- b) The value of this contribution is current as of 19/07/2021. If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 7.12 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

Where:

**\\$C<sub>PY</sub>** is the amount of the contribution at the date of Payment

**\\$C<sub>DC</sub>** is the amount of the contribution as set out in this Development Consent

**CPI<sub>PY</sub>** is the latest release of the Consumer Price Index (Sydney – All Groups) at the date of Payment as published by the ABS.

**CPI<sub>DC</sub>** is the Consumer Price Index (Sydney – All Groups) for the financial quarter at the date of this Development Consent.

- c) The monetary contributions shall be paid to Council:
- i) prior to the issue of the Subdivision Certificate where the development is for subdivision; or
  - ii) prior to the issue of the first Construction Certificate where the development is for building work; or
  - iii) prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
  - 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.*

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

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

## 5. 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

## 6. 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 assist in ensuring compliance with the



conditions of consent and provide monitoring reports as specified by the conditions of consent.

- b) Details of the appointed project arborist must be submitted to Council and the PCA with the application for the construction certificate/subdivision works certificate.

#### 7. **Building Code of Australia**

Detailed plans, specifications and supporting information is required to be submitted to the certifying authority detailing how the proposed building work achieves compliance with the *National Construction Code - Building Code of Australia*. All building work must be carried out in accordance with the requirements of the *National Construction Code - Building Code of Australia*.

#### 8. **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](http://www.sydneywater.com.au) under the Building and Development tab.*

#### 9. **Car Parking and Deliveries**

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

- a) All parking areas and driveways must be sealed to an all weather standard, line marked and signposted;
- b) Car parking, loading and manoeuvring areas must be used solely for nominated purposes;
- c) Vehicles awaiting loading, unloading or servicing must be parked on site and not on adjacent or nearby public roads; and
- d) All vehicular entry on to the site and egress from the site must be made in a forward direction.

#### 10. **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".

#### 11. **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](http://www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions)) and the following requirements:

- a) An internal stormwater drainage system to service the proposed industrial development with pits being cast in situ or pre cast concrete pits being used. Drainage will be discharged into an existing sedimentation basin via a bioretention swale. Any overflow is discharged to the southern corner of the property.

#### 12. Water Sensitive Urban Design

A Water Sensitive Urban Design (WSUD) is to be constructed generally in accordance with the Stormwater quality analysis report (Ref J200117 rev A) and Proposed stormwater design for alterations & addition at 5 Beaumont Rd Mt Kuring-gai plans (J200117 rev B) prepared by Neilly Davies & Partners. The Water Quality Targets as detailed within the report and Hornsby Development Control Plan 2013 (1C.1.2) are to be achieved in the design and supported by a MUISC-link validation report & MUSIC model.

#### 13. Internal Driveway/Vehicular Areas

The driveway and parking areas on site must be designed, constructed and a Construction Certificate issued in accordance with *Australian Standards AS2890.2, AS2890.6, AS3727* and the following requirements:

- a) The driveway be a rigid pavement.
- b) Longitudinal sections along the widened access driveway shall be submitted to the principal certifying authority in accordance with the relevant sections of AS2890.2. The maximum grade shall not exceed 15.4% with the maximum changes of grade of 6.25% in 7m of travel for vehicle not exceeding HRV.

#### 14. Environmental Management Plan (Potential Unidentified Contamination)

- a) To appropriately manage the risk associated with the potential for unidentified land contamination to be present beneath hardstand areas on the subject premises, a separate Environmental Management Plan (EMP) must be prepared by a certified consultant as recognised under the Certified Environmental Practitioners Scheme - Site Contamination (CEnvP (SC)) or the Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) certification and submitted to Council's Compliance Team via Council's Online Services Portal for review and approval prior to issue of a construction certificate.
- b) The EMP must consider and include appropriate management strategies to address the exposure risk to construction / utility workers involved in excavation and construction works at the site and to future site users, including staff and maintenance contractors. The EMP shall further include the following information:
  - i) Strategies to restrict human access below existing and proposed hardstand areas, including maintenance requirements for hardstand areas and related considerations; and
  - ii) Procedures when undertaking necessary subsurface works below hardstand areas, including an Unexpected Finds Protocol incorporating a statement

verifying that, should the presence of asbestos or indicators of soil contamination be identified during construction or operation of the development, the applicant must immediately notify Hornsby Shire Council.

- c) The EMP must be lodged via Council's Online Services Portal at <https://eservices.hornsby.nsw.gov.au/ePathway/Hornsby/Web/#> and by selecting the following menu options: Applications > New Application > (under 'Application Types') Management Plans.

#### 15. Construction Management Plan

To assist in the protection of the public, the environment and Council's assets, a separate Construction Management Plan (CMP) must be prepared by a suitably qualified environmental consultant in consultation with a qualified traffic engineer and AQF Level 5 arborist and submitted to Council's Compliance Team via Council's Online Services Portal for review and approval. The CMP must include the following details:

- a) A *Construction Traffic Management Plan* (CTMP) prepared by a qualified traffic engineer in compliance with the requirements of the Roads and Maritime Services *Traffic control at work sites Manual 2018* that is consistent with all other required CMP and approved plans and includes the following:
- i) The order of construction works and arrangement of all construction machines and vehicles on site during all stages.
  - ii) Swept path analysis for ingress and egress of the site for all stages of works, including: demolition; earthworks; construction, and post-construction fit-out/landscaping (also see Item b)i) .
  - iii) Traffic controls including those used during non-working hours.
  - iv) Pedestrian and cyclist access and safety, demonstrating that two-way traffic in the public road will at all-time be facilitated.
  - v) 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 how this will be achieved.
  - vi) Proposed truck routes to and from the site including details of the frequency of truck movements for all stages of the development.
  - vii) A schedule of maximum truck movements on any given day and during peak commuter periods for all stages of works, as follows:

Stage	Max. number of trucks/ day	Vehicle type/s i.e., SRV, MRV, HRV	Largest vehicle type and length (m)	Time-frame
Demolition				
Earthworks				
Construction				
Fit-out/ landscaping				

Period	Construction stage	No. trucks/ period	Vehicle type/s during period	Largest vehicle type and length (m)
Morning peak commuter period: ____ AM to ____ AM	Demolition			
	Earthworks			
	Construction			
	Fit-out/ landscaping.			
Afternoon / evening peak commuter period: ____ PM to ____ PM	Demolition			
	Earthworks			
	Construction			
	Fit-out/ landscaping			

- viii) The source site location of any proposed fill to be imported to the site, for all stages of works.
- ix) The CTMP must include statements confirming the following:
- Building materials, work sheds, vehicles, machines and the like will not be allowed to remain in the road reserve area without the written consent of Hornsby Shire Council.
  - An application to Hornsby Shire Council will be made to obtain any required partial Road Closure, Work Zone (if permitted) and Crane Permits. The Plan must detail these requirements.
  - All vehicles will enter and leave the site in a forward direction and that all demolition and construction vehicles will be contained wholly within the site.
  - A street 'scrub and dry' 'street-sweeping' service will be in operation to remove sediment tracked by vehicle from the site during all stages of works.
  - The applicant and all employees of contractors on the site will obey any direction or notice from the Prescribed Certifying Authority or Hornsby Shire Council to ensure compliance with the approved CTMP.
- b) A *Construction Management Site Plan* including separate site management plans for each stage of works (demolition, excavation, construction and post-construction fit-out / landscaping works), showing the following:
- Site sheds, concrete pump and crane locations, unloading and loading areas, waste and storage areas, ablutions facilities, existing survey marks, vehicle entry/exit and turning areas (shown as swept path diagrams), surrounding pedestrian footpaths and proposed hoarding (fencing) locations.
  - Tree protection zones (TPZ) and structural root zones (SRZ) of trees required to be retained, inclusive of distances in metres, and details of the site specific

- tree protection measures to be implemented as designed by an AQF Level 5 arborist.
- iii) Sediment and erosion control measures to be implemented.
- c) A *Construction Waste Management Plan* detailing the following:
- i) Details of the importation and excavation of soil and fill, the classification of the fill, disposal methods and authorised disposal depots that will be used for the fill.
  - ii) General construction waste details including construction waste skip bin locations and litter management for workers.
- d) A *Construction Noise and Vibration Management Plan (CNMP)* including an assessment of existing ambient noise and vibration levels within the vicinity of the site and detailing:
- i) The maximum level of noise and vibration predicted to be emitted during each stage of works and predicted noise levels at nearby sensitive receivers.
  - ii) Details of the site specific noise and vibration mitigation measures that will be utilised at each stage of works to meet acoustic standards and guidelines with reference to the *Interim Construction Noise Guideline* (State Government, 2009).
  - iii) Details of a complaints handling process for all stages of works including a statement that records of any such complaints, including details of any actions taken in response, will be maintained and provided to Hornsby Shire Council upon request.
- e) Contact information for developers, builder, private certifier and any emergency details during and outside work hours.

The CMP must be lodged via Council's Online Services Portal at: <https://eservices.hornsby.nsw.gov.au/ePathway/Hornsby/Web/#> and by selecting the following menu options: Applications > New Application > (under 'Application Types') Management Plans.

#### 16. Oil/ Water Separator

To ensure wastewater generated by the development is adequately treated prior to discharge off-site, a report prepared by a suitably qualified wastewater engineer/consultant must be submitted to the Principal Certifying Authority for their review and approval prior to issue of a construction certificate detailing the design and specifications of an Oil/Water Separator system to service the approved development. The report must:

- a) Indicate the type, capacity and location of the Oil/Water Separator mechanism to be used for the site and details of any pre-treatment devices;
- b) Include plans showing any pipe work to be connected to the Oil/Water Separator system;
- c) Detail the specifications of a bunded area sized to hold a minimum volume equivalent to 110% of separator capacity

- d) Demonstrate that, when installed, the Oil/Water Separator system will be capable of pre-treating wastewater to the standards imposed by Sydney Water, prior to discharge from the site to sewer.
- e) Details on maintenance and cleaning requirements and an adequate maintenance regime for the system.

<b>REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS</b>
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**17. 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; and
  - 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.

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

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

**19. Installation of Tree Protection Measures**

- a) Trees to be retained must have tree protection measures for the ground, trunk and canopy installed by the project arborist in accordance with the Tree Protection Requirements outlined in Section 11 of the Arboricultural Impact Assessment Report, prepared by Urban Arbor, dated 17 November 2020.
- b) The installation of all required tree protection fencing must include shade cloth attached to the fencing to reduce transport of dust, particulates and liquids from entering the tree protection zone.

- c) 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.

#### 20. 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; or
  - ii) be a temporary chemical closet approved under the *Local Government Act 1993*; or
  - iii) have an on-site effluent disposal system approved under the *Local Government Act 1993*.

#### 21. 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.*

#### 22. 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

#### 23. 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.

**24. 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; and
- 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*; and
- c) On construction sites where any building contain 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.

**25. Works within Tree Protection Zones**

- a) Any required 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.
- b) Any 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* and be supervised by the project arborist.
- c) Any necessary excavation within any tree protection zones must be undertaken by sensitive methods such as pneumatic or by hand as prescribed in *AS4970-2007 Sections 4.5.5*.
- d) Existing grade must be retained within the TPZ of all trees being retained unless specifically nominated for alteration on the approved plans.

**26. 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*.

**27. Street Sweeping**

During works and until exposed ground surfaces across the site have been stabilised, street sweeping must be undertaken following sediment tracking from the site.

The street cleaning service must utilise a 'scrub and dry' method and be undertaken for the full extent of any sediment tracking.



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**28. Compliance with Environmental Management Plan (Potential Unidentified Contamination)**

The Environmental Management Plan, as required by this consent and approved by Council, must be complied with all times during works unless otherwise approved by Council.

**29. 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.

**30. Council Property – Road Reserve**

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.

**31. 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.

**32. Landfill not Permitted**

The importation of fill material associated with earthworks, or structural or engineering works, is not permitted as part of this consent.

**33. Excavated Material**

Any 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 Occupation Certificate.

**34. 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.

**35. Waste Management Details**

Requirements of the approved Waste Management Plan shall be complied with during all site preparation works, demolition and throughout all construction works. When implementing the Waste Management Plan, the developer is to ensure:

- a) The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the Protection of Environment Operations Act 1997

- b) All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*.
- c) Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by *SafeWork NSW*.
- d) All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it.
- e) All materials and resources that are to be stored on site during construction works are contained on the site. The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses.
- f) The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works.
- g) Additionally, written records of the following items must be maintained during the removal of any waste from the site and such information submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works:
  - i) The identity of the person removing the waste.
  - ii) The waste carrier vehicle registration.
  - iii) Date and time of waste collection.
  - iv) A description of the waste (type of waste and estimated quantity).
  - v) Details of the site to which the waste is to be taken.
  - vi) The corresponding weighbridge tip docket/receipt from the site to which the waste is transferred (noting date and time of delivery, description (type and quantity) of waste).
  - vii) Whether the waste is expected to be reused, recycled or go to landfill.

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

### **36. 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

**REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**
**37. Certification of WSUD Facilities**

Prior to the issue of an Occupation Certificate a certificate from a Civil Engineer is to be obtained stating that the WSUD facilities have been constructed and will meet the water quality targets as specified in the Hornsby Development Control Plan 2013.

**38. 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 bioretention swale and sedimentation basin, within the area in favour of Council in accordance with Council's prescribed wording. The position of the bioretention swale and sedimentation basin is to be clearly indicated on the title;
- b) To register the positive covenant restriction, the restriction on the use of land "*works-as-executed*" details of the bioretention swale and sedimentation basin must be submitted verifying work have been constructed in accordance with the design requirements. The details must show the levels together with dimensions 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.*

**39. Litter and Illegal Dumping Management**

A Litter and Illegal Dumping Management Plan must be submitted to Council for approval prior to the issue of any Occupation Certificate. The Litter and Illegal Dumping Management Plan must include mitigation (including but not limited to daily litter picking patrols and removal of illegally dumped material) and prevention strategies (including but not limited to security cameras) and must cover both the subject site and adjacent land.

*Note: The Litter and Illegal Dumping Management Plan can be sent to Council via email via [hsc@hornsby.nsw.gov.au](mailto:hsc@hornsby.nsw.gov.au) with attention to the Waste Management team.*

**40. Damage to Council Assets**

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

**41. External Lighting**

- a) To protect the amenity of adjacent premises, all external lighting must be designed and installed in accordance with *Australian Standard AS4282 Control of the Obtrusive Effects of Outdoor Lighting*.
- b) Certification of compliance with this Standard must be obtained from a suitably qualified person and submitted to the PCA with the application for the Occupation Certificate.

**42. Wastewater Connection to Sydney Water**

All Wastewater generated on site including waste from amenities buildings, truck washing operations, and waste water from the oil / water separator must be connected to Sydney Water's sewerage system.

**43. 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"**.

**44. Replacement Tree Requirements**

To maintain local canopy cover, trees approved for removal under this consent must be offset through replacement planting of a minimum of 4 trees.

- a) All replacement plantings must be species Indigenous to the Hornsby Shire.
- b) Location and Size of Plantings
  - i) All replacement trees must be located 4 metres or greater from the foundation walls of the approved development.
  - ii) The pot size of the replacement tree(s) must be a minimum 25 litres
  - iii) All replacement tree(s) must be maintained until they reach the height of 3 metres.
  - iv) All replacement trees must have the potential to reach a mature height greater than 8 metres.
  - v) All tree stock must meet the specifications outlined in '*Specifying Trees*' by Ross Clark, (Publisher NATSPEC Books).
  - vi) Planting methods must meet professional (best practice) industry standards.

**45. Final Certification Arborist**

- a) A suitably qualified person holding a certificate III in Horticulture must submit to the principal certifying authority a Statement/or/Certification confirming all Tree Replacement plantings required by this consent have been adequately established.

- 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.*

#### **46. Asbestos Clearance Certificate**

Should any asbestos be encountered during demolition or construction works, a licenced asbestos assessor is required to provide a Clearance Certificate to the Certifier prior to the issue of an Occupation Certificate, certifying that the asbestos has been removed and appropriately disposed of, and the site is now suitable for its approved use.

#### **47. Submission of Excavated Material Tipping Dockets to Principal Certifying Authority**

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

#### **48. Environmental Management and Protection**

To protect the water quality of the downstream environment and provide for appropriate environmental management during operation of the development, the following requirements must be implemented prior to the issue of an Occupation Certificate:

- a) The Oil/Water Separator system designed and certified by a suitably qualified person and approved by the Principal Certifying Authority must be installed to service the development. The approved Oil/Water Separator shall be connected via Trade Waste Agreement to Sydney Water's sewerage system in accordance with Sydney Water's requirements.
- b) Waste water from the truck wash shall be directed to the approved Oil/Water Separator system.
- c) Designated chemical, fuel and oil storage areas must be provided within the Work shop + Bin store building that:
  - i) Have impervious flooring/base;
  - ii) Are contained within a bunded area of sufficient capacity to hold 110% of the largest vessel stored within the bund, and
  - iii) Are designed and installed in accordance with pages 40–44 of the Department of Environment and Climate Change NSW's document titled: *Storing and Handling Liquids: Environmental Protections, Participants Manual*, May 2007.
- d) The floor of the Work shop + Bin store building must be appropriately sealed and bunded to prevent spills within the workshop area discharging from the building;
- e) Clearly labelled and appropriately stocked spill kits must be provided within the Work shop + Bin store building to ensure personnel can readily access spill containment and clean-up equipment and materials in the event of any spill. Spill kits must be clearly

distinguishable from any other bin/s to be kept within the Work shop + Bin store building;

- f) All drains on the development site that connect to the stormwater system must clearly be marked 'stormwater drain' to increase awareness of the pollution risk and enable immediate identification and efficient response in the event of a spill or pollution incident.
- g) The 'Resident Recycling Dropoff' area shall be located over a sealed hardstand area that is appropriately bunded to provide adequate containment of waste substances in the event of any spills.

#### 49. Waste Management Details

The following waste management requirements must be complied with:

- a) A report must be prepared by an appropriately qualified person, certifying the following:
  - i) A comparison of the estimated quantities of each demolition and construction waste type against the actual quantities of each waste type.  
*Note: Explanations of any deviations to the approved Waste Management Plan is required to be included in this report*
  - ii) That at least 60% of the waste generated during the demolition and construction phase of the development was reused or recycled.  
*Note: If the 60% diversion from landfill cannot be achieved in the Construction Stage, the Report is to include the reasons why this occurred and certify that appropriate work practices were employed to implement the approved Waste Management Plan. The Report must be based on documentary evidence such as tipping dockets/receipts from recycling depots, transfer stations and landfills, audits of procedures etc. which are to be attached to the report.*
  - iii) All demolition and construction waste was taken to site(s) that were lawfully permitted to accept that waste.
- b) Space is to be allocated inside each demountable building for the interim storage of waste, with two separate 15-240 litre containers installed, one each for garbage and recyclable materials.

#### 50. Certification of RFS Requirements

A Certificate prepared by a BPAD accredited Bushfire Consultant is to be provided to the Principal Certifying Authority (PCA) certifying the completion of all works required by the NSW RFS conditions of concurrence prior to the issue of the Occupation Certificate.

### OPERATIONAL CONDITIONS

#### 51. Use of Premises

- a) The development approved under this consent shall be used for a depot and a waste transfer station and not for any other purpose without Council's separate written consent.

- b) The waste transfer station approved under this consent must not process any more than 6000 Tonne of waste in any 12 month period.

#### **52. Ongoing Protection of Bushland**

The natural bushland areas of the site must remain undisturbed and be protected in perpetuity in accordance with the following requirements:

- a) The bushland area is to be fenced off with post and wire (or similar) fencing to prevent vehicular access;
- b) The bushland area is to be kept free of noxious weeds using recognised bush regeneration methods in accordance with *'Recovering bushland on the Cumberland Plain: Best practice guidelines for the management and restoration of bushland – Department of Conservation 2005'*; and
- c) Machinery and fertilizer must not be used in the bushland area for maintenance purposes.

#### **53. Vegetation Maintenance**

Vegetation, landscaping and fencing must be maintained in a manner that does not restrict sightlines for any vehicle entering or existing the site.

#### **54. Waste Management – Ongoing Operations**

The waste management on site must be in accordance with the following requirements:

- a) There must be a sufficient number of bins on site to contain the volume of waste and recycling expected to be generated between collection services.
- b) Adequate signage is to be provided and maintained on how to use the waste management system and what materials are acceptable for recycling within all waste storage areas of the development. Signage is also to be provided and maintained which clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin.
- c) All surfaces trafficable by the waste collection vehicles must be kept in good and substantial repair.
- d) The tenant must ensure that the approved Litter and Illegal Dumping Management Plan is effectively implemented. Sufficient resources must be provided for the management of litter and illegally dumped material both on and off site, to be carried out to a satisfactory standard.

#### **55. Operation of Waste Transfer Facility**

- a) Approval for operation of a Waste Transfer Facility at the above premises applies only to the collection, handling and temporary storage on-site of waste deposited by the community within the designated 'Resident Recycling Dropoff' location as shown on the approved site plan.
- b) No waste is to be stored in any vehicles parked overnight on the premises, with exception of waste collected from the designated 'Resident Recycling Dropoff' location and awaiting off-site transfer to an approved resource recovery facility.

- c) The premises must not be used to carry out an activity declared to be a scheduled activity in accordance with Schedule 1 of the *Protection of the Environment Operations Act 1997*.

#### 56. Hours of Operation Workshop and Truck Wash

The hours of operation of the Workshop and Truck wash are restricted to:

- a) 7am to 10pm, daily; or
- b) Anytime, upon Hornsby Shire Council's written confirmation that an acoustic report prepared by a suitably qualified Acoustic Consultant and member of the Association of Australasian Acoustical Consultants has been submitted to the Council, demonstrating to Council's satisfaction that operation of the workshop and truck wash will not cause a sound pressure level (measured as the LAeq,15 minute) that exceeds 38dB(A) any time between 10pm and 7am (8am on Sunday), assessed at the reasonably most-affected residence(s).
- c) Terms used in this condition have the same meaning as in the NSW Environment Protection Authority's Noise Policy for Industry ("the NSW EPA's Noise Policy for Industry") current at the time of this consent
- d) The above emission limits include any corrections for audible characteristics in accordance with the NSW EPA's Noise Policy for Industry.

#### 57. Noise - Operational

All noise generated by the development must be suitably attenuated to comply with the following criteria:

- a) Operation of the development must not cause a sound pressure level (measured as the LAeq, 15 minute) at any reasonably most-affected residence(s) that exceeds:
  - i) 38dB(A), between 10pm and 7am (8am on Sunday);
  - ii) The background level (measured as the LA90, 15 minute in the absence of the noise under consideration) by more than 5dB(A), between 7am and 10pm (8am on Sunday),
- b) The above emission limits include any corrections for audible characteristics in accordance with the NSW EPA's Noise Policy for Industry.
- c) Terms used in this condition have the same meaning as in the NSW Environment Protection Authority's Noise Policy for Industry.

#### 58. Comply with Environmental Management Plan (Potential Unidentified Contamination)

- a) The Environmental Management Plan required by this consent and as approved by Council must be complied with all times unless otherwise approved by Council. Changes to the approved Environmental Management Plan must not be made without the written consent of Council.
- b) A copy of the approved Environmental Management Plan must be kept on site and at all-times be available to personnel and contractors.



**59. Environmental Management and Protection – Ongoing**

- a) Environmental management and protection measures provided to the development as specified by this consent must all-times be maintained in effective working order;
- b) Service/maintenance works to vehicles must only be carried out within the Work shop + Bin store building;
- c) All bins, chemicals/hazardous substances and vehicle parts must be stored within the Work shop + Bin store building.

**CONDITIONS OF CONCURRENCE - TRANSPORT FOR NEW SOUTH WALES**

The following conditions of consent are from the nominated State Agency pursuant to Section 4.13 of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

**60. TfNSW Condition 1**

insert text TfNSW has previously resumed and dedicated a strip of land as road along the Pacific Highway frontage of the subject property, as shown by grey colour on the attached Aerial – “X”. All buildings and structures (including signage), together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along Pacific Highway boundary.

**CONDITIONS OF CONCURRENCE - NSW RURAL FIRE SERVICE**

The following conditions of consent are from the nominated State Agency pursuant to Section 4.13 of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

**61. Asset Protection Zones**

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

- a) From the start of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire property must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*. When establishing and maintaining an IPA the following requirements apply:
  - i) Tree canopy cover should be less than 15% at maturity;
  - ii) Trees at maturity should not touch or overhang the building;
  - iii) Lower limbs should be removed up to a height of 2 metres above the ground;
  - iv) Tree canopies should be separated by 2 to 5 metres;
  - v) Preference should be given to smooth barked and evergreen trees;
  - vi) Large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
  - vii) Shrubs should not be located under trees;

- viii) Shrubs should not form more than 10% ground cover;
- ix) Clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- x) Grass should be kept mown (as a guide grass should be kept to no more than 100 mm in height); and
- xi) Leaves and vegetation debris should be removed.

## 62. Construction Standards

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions shall apply:

- a) New construction of proposed Workshop and Bin Store, office block, amenities block and lunch room must be undertaken using non-combustible materials.
- b) The proposed Workshop and Bin Store, office block, amenities block and lunch room must provide ember protection by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

- 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](http://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:

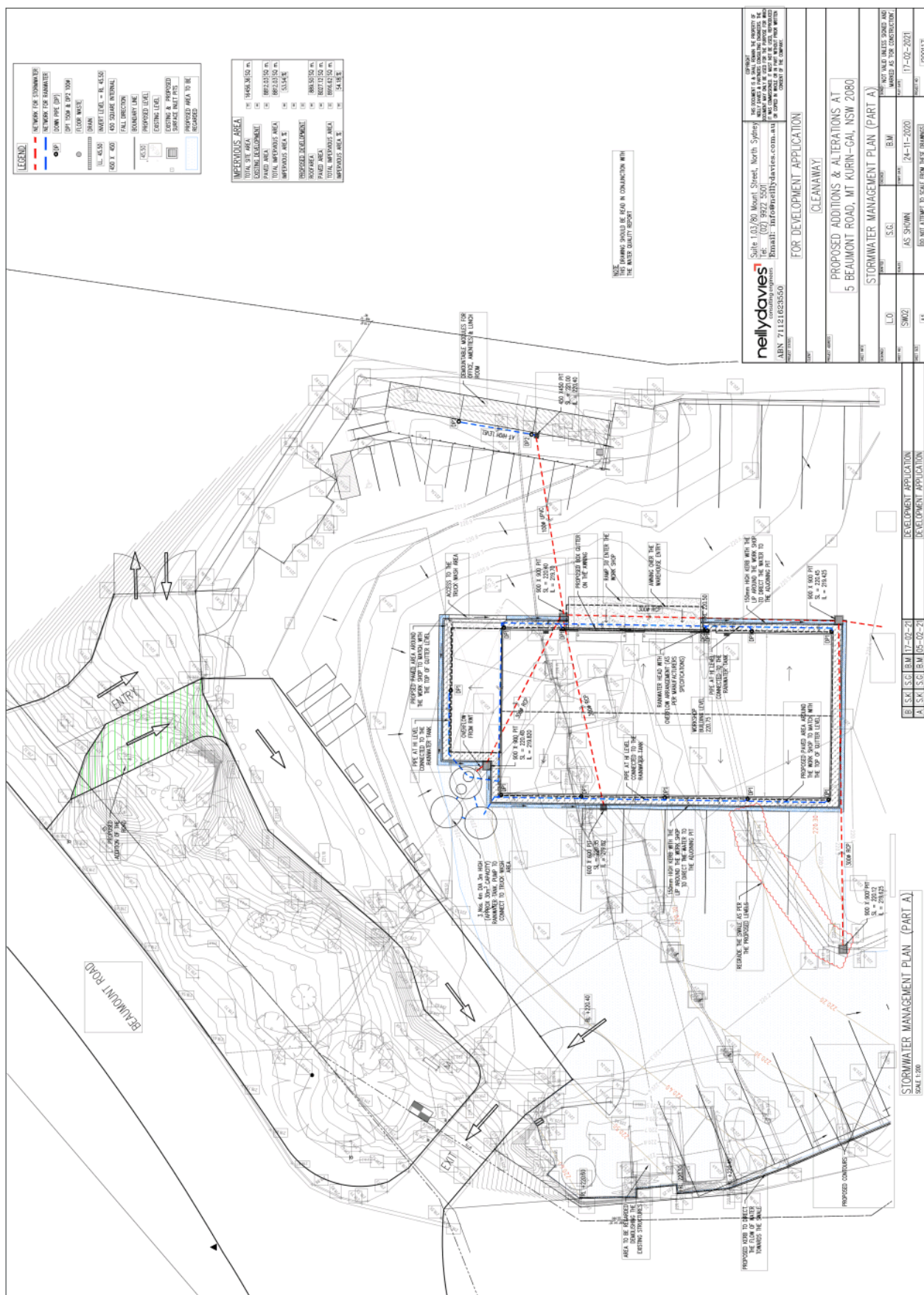
[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

[www.adfa.org.au](http://www.adfa.org.au)

[www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)

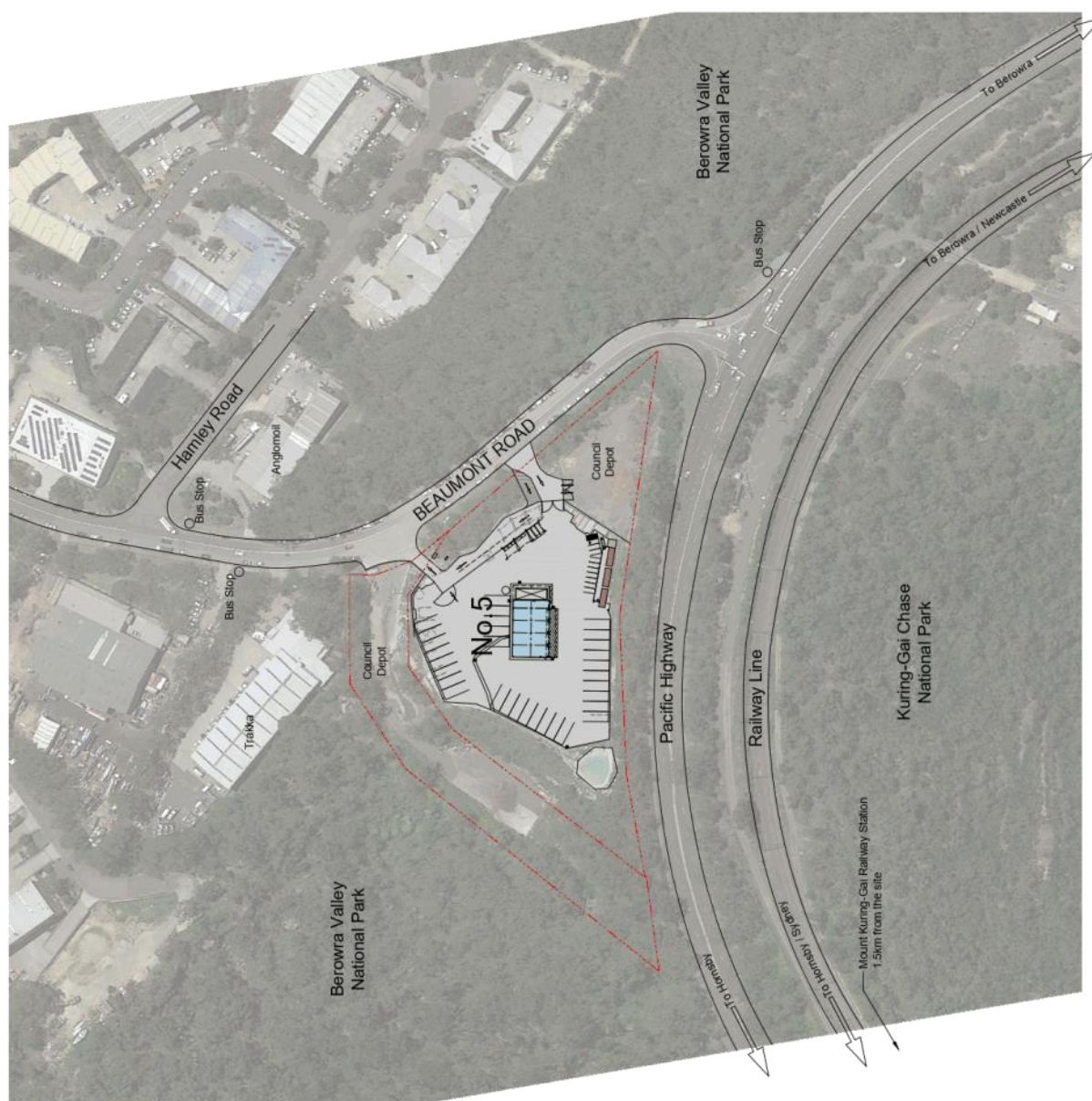
Alternatively, telephone the *SafeWork NSW* on 13 10 50.

# ATTACHMENT 3 - ITEM 3









## DRAWING SCHEDULE

MNT-DA01	LOCATION PLAN
MNT-DA02	EXISTING SITE PLAN
MNT-DA03	PROPOSED SITE PLAN
MNT-DA04	WORKSHOP FLOOR PLAN + ROOF PLAN
MNT-DA05	WORKSHOP ELEVATIONS + SECTION
MNT-DA06	DEMOUNTABLE PLAN AND ELEVATIONS
MNT-DA07	SIGNAGE SCHEDULE

ISSUE B  
ISSUE A

WORKSHOP REVISED AND TRUCK WASH  
ISSUED FOR DEVELOPMENT APPLICATION

20/08/21  
26/03/21

Drawing Title  
LOCATION PLAN  
Date  
20 AUGUST 2021  
Drawing Number  
MNT-DAN1(R)

Project  
Proposed Cleanaway Facility  
Location  
5 Beaumont Road Mount Kuring Gai, NSW  
Scale  
1:2000 @ A3  
Project Number  
1980

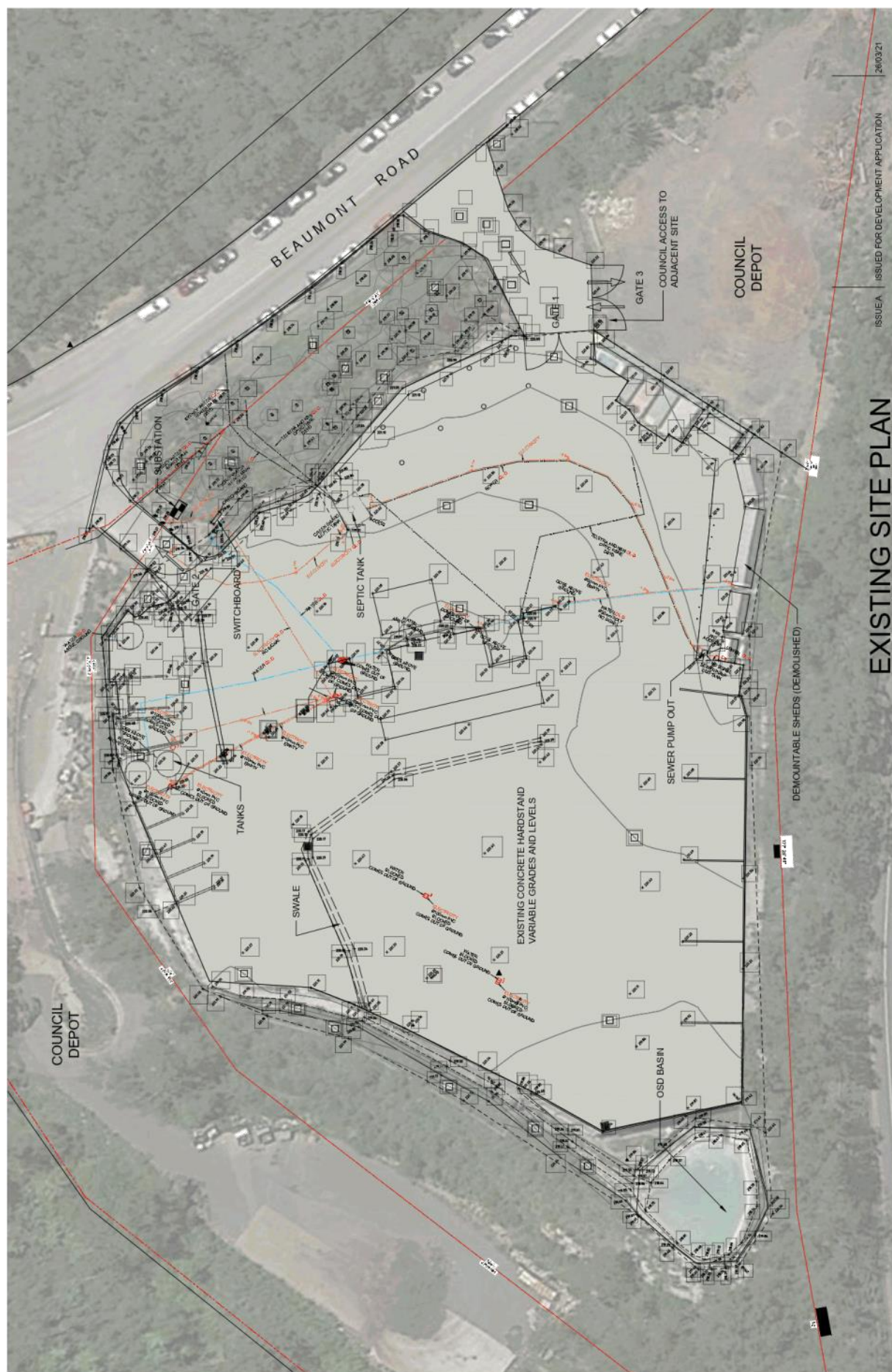


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Nominated Architect  
Tim Farrell No 8257

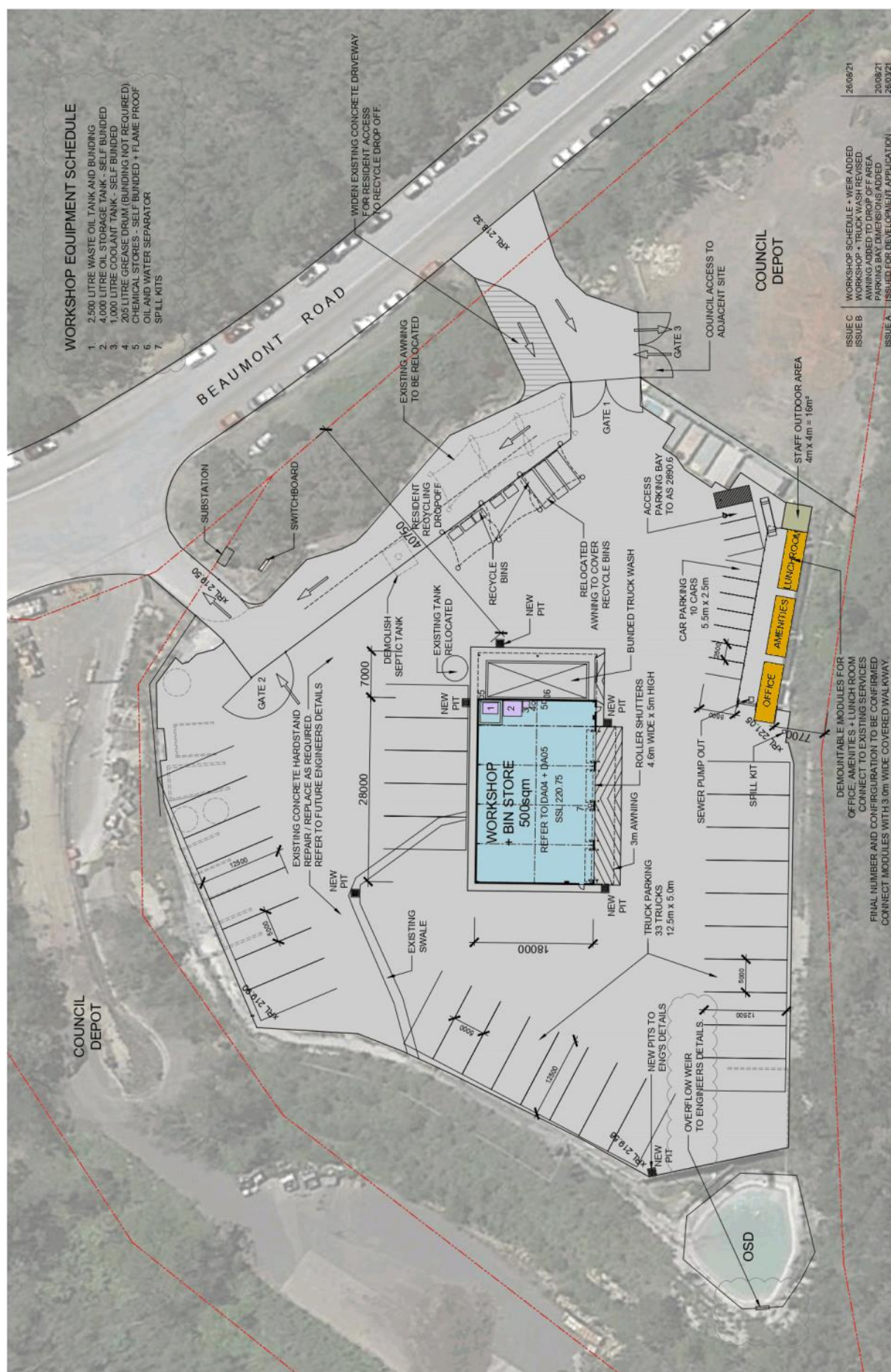
# ATTACHMENT 3 - ITEM 3





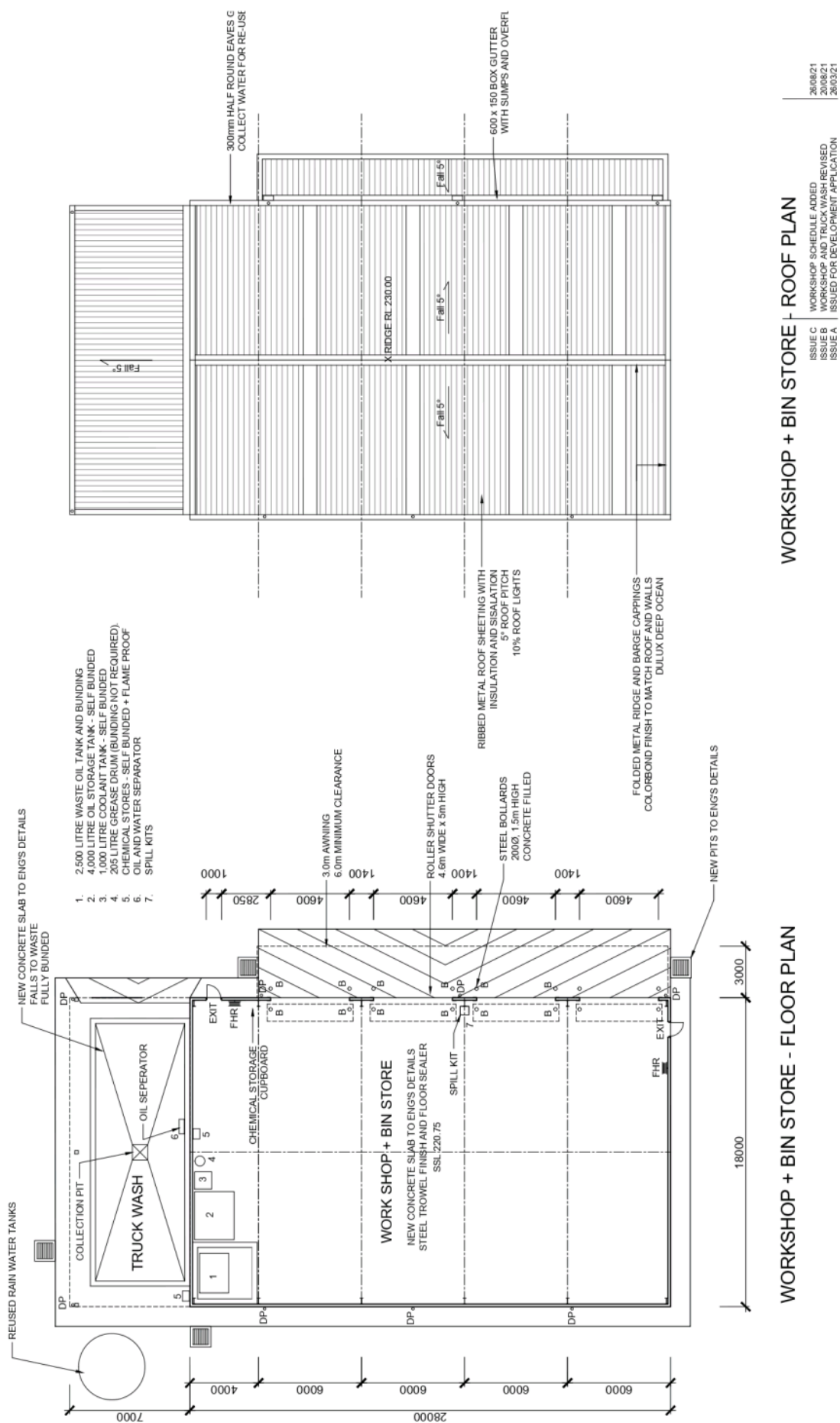
# ATTACHMENT 3 - ITEM 3



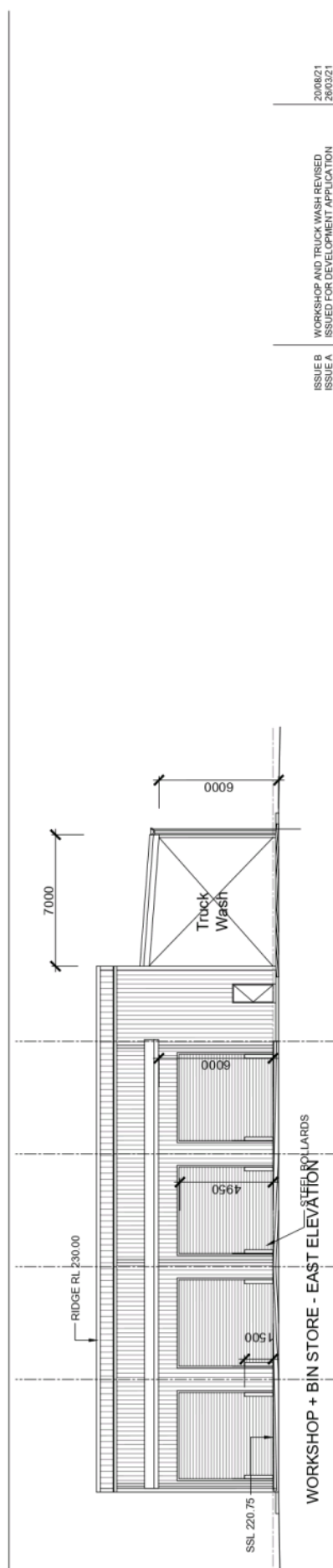


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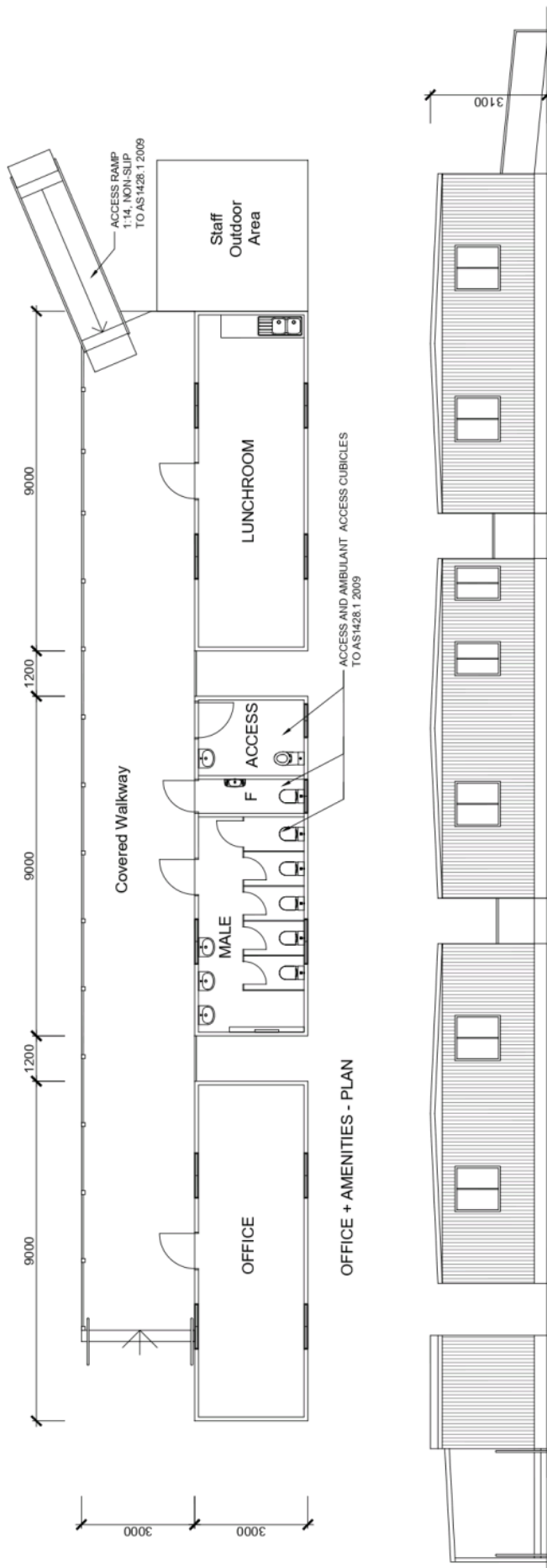


# ATTACHMENT 3 - ITEM 3



Project	PROPOSED CLEANAWAY FACILITY	Drawing Title	SECTION, ELEVATIONS
Location	5 BEAUMONT ROAD MOUNT KURING GAI, NSW	Date	20 AUGUST 2021
Scale	1:200 @ A3	Drawing Number	MINT-1 05(R)
Project Number	1000		

# ATTACHMENT 3 - ITEM 3



26/03/21

ISSUE A | ISSUED FOR DEVELOPMENT APPLICATION

Project  
 DEMOUNTABLES  
 Date  
 26 MARCH 2021  
 Drawing Number  
 MNT-1 06/Δ1

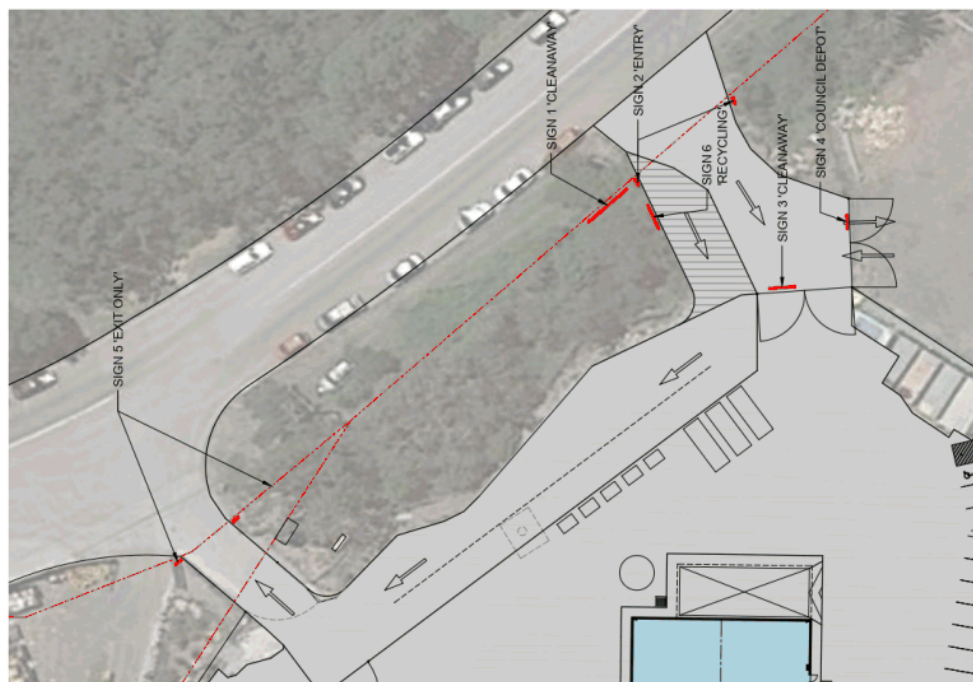
Project  
 PROPOSED CLEANAWAY FACILITY  
 Location  
 5 BEAUMONT ROAD MOUNT KURING GAI, NSW  
 Project Number  
 1080  
 Scale  
 1:200 @ A3



TIM FARRELL PTY LTD

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 ABN 62 118 300 740  
 info@timfarrell.com.au  
 Tim Farrell Pty Ltd  
 T: +61 2 8614 4300  
 Nominated Architect

# ATTACHMENT 3 - ITEM 3



SIGNAGE PLAN

**SIGN 1 - STREET SIGN**

1 2000mm x 5530mm

**SIGN 2 - ENTRY**

2 580mm x 770mm

COUNCIL TO CONFIRM TEXT

**SIGN 3 - CLEANAWAY ENTRY GATE**

3 1800mm x 1925mm

**SIGN 4 - COUNCIL ENTRY GATE**

4 1100mm x 400mm

**SIGN 5 - EXIT DRIVEWAY**

5 580mm x 770mm

**SIGN 6 - ENTRY DRIVEWAY**

6 2700mm x 1000mm

26/03/21

ISSUE A | ISSUED FOR DEVELOPMENT APPLICATION

Drawing Title

SIGNAGE SCHEDULE

Date

26 MARCH 2021

Location

5 BEAUMONT ROAD MOUNT KURING GAI, NSW

Project Number

1080

Scale

NTS

Drawing Number

MNT-1 07/Δ1



**CLEANAWAY**

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Tim Farrell Pty Ltd  
Nominated Architect

# ATTACHMENT 3 - ITEM 3

#### 4 ELECTRONIC - DA/56/2021 - GROUP HOME - 11 DENMAN PARADE, NORMANHURST

---

##### EXECUTIVE SUMMARY

**DA No:** DA/56/2021 (Lodged on 21/01/2021)

**Description:** Group Home

**Property:** Lot E DP350516, No. 11 Denman Parade, Normanhurst

**Applicant:** Ms Mihoko Mitani

**Owner:** Ms Mihoko Mitani

**Estimated Value:** \$1,337,720

**Ward:** B

- The application involves demolition of an existing dwelling and ancillary structures and construction of a group home.
- A total of nine submissions have been received in respect of the application.
- The application is required to be determined by the Hornsby Local Planning Panel due to an internal conflict of interest with a Council staff member who is involved in the exercise of Council's functions under the *Environmental Planning and Assessment Act 1979*.
- The report by Octagon Planning Pty Ltd is attached to this report for the Hornsby Local Planning Panels consideration. The independent consultant's report recommends refusal of the application.

##### RECOMMENDATION

THAT Development Application No. DA/56/2021 for demolition of existing structures and construction of a group home at Lot E DP350516, No. 11 Denman Parade, Normanhurst, be refused for the reasons detailed in Schedule 1 of LPP Report No. LPP31/21.

## ASSESSMENT

In accordance with the referral criteria and procedural requirements for Local Planning Panels, the assessment of the development application has been referred to an independent town planning consultant due to an internal conflict of interest with a Council staff member who is involved in the exercise of Council's functions under the *Environmental Planning and Assessment Act 1979*. The report by *Octagon Planning* is Attachment 1 of this report.

## CONCLUSION

The application proposes demolition of the existing dwelling and shed and construction of a group home comprising four two-bedroom units and a bedroom with office and bathroom for staff.

The development does not meet the desired outcomes of Council's planning controls and is unsatisfactory having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

Council received nine (9) 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, refusal of the application is recommended.

The reasons for this decision are:

- The proposed development does not comply with the requirements of *State Environmental Planning Policy (Affordable Rental Housing) 2009*, *Hornsby Local Environmental Plan 2013* and *Hornsby Development Control Plan 2013*.
- The proposed development is not suitable for the subject site, creates unreasonable environmental impacts with regards to biodiversity, and does not adequately address flooding impacts and stormwater management.

*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 Nicola Neil, an independent consultant from Octagon Planning Pty Ltd.

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.   Consultant's Report
3.   Architectural Plans
4.   Amended Site Plan

File Reference: DA/56/2021

Document Number: D08259004

**ITEM 4**

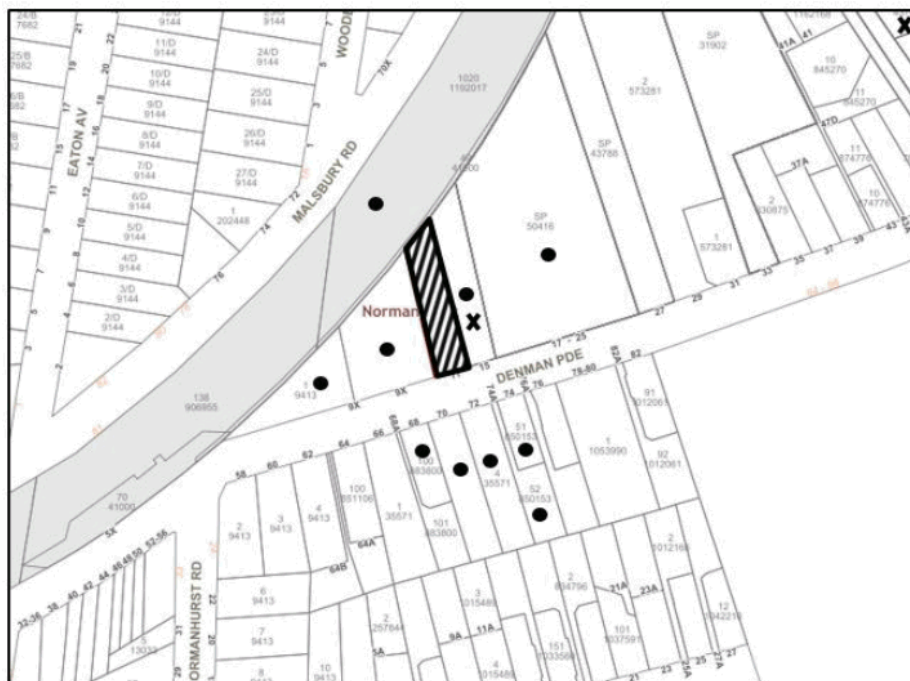
**SCHEDULE 1**

1. The proposal is unsatisfactory in respect to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the development does not comply with the requirements of Schedule 2 of *State Environmental Planning Policy (Affordable Rental Housing) 2009* with regard to setbacks to public reserves and earthworks.
2. The proposal is unsatisfactory in respect to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the development is not consistent with the development objectives and provisions of Clause 6.3 Flood Planning of the *Hornsby Local Environmental Plan 2013*.
3. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposal does not comply with the desired outcome and the prescriptive measures of *Hornsby Development Control Plan 2013* (HDCP) as follows:
  - a) The proposal does not comply with the prescriptive measures within Part 1C.1.1 (e) and (f) Biodiversity of the HDCP referring to the protection of Endangered Ecological Communities through the use of buffer zones.
  - b) The proposal does not comply with the prescriptive measures within Part 1C.1.2 (c) to (e) Stormwater Management of the HDCP referring to disturbance of natural flow paths.
  - c) The proposal does not comply with the prescriptive measures within Part 1C.3.2 (a) and (b) Flooding of the HDCP referring to the provisions of Clause 6.3 of the *Hornsby Local Environmental Plan 2013* and the management of the overland flow path on the site.
4. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposal would have detrimental environmental impacts on both the natural and built environment in the locality.
5. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, it is considered that the site is not suitable for the proposed development.
6. Pursuant to the provisions of Section 4.15(1)(a)(d) and (e) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development would not be in the public interest.
7. The application fails to include sufficient information that adequately addresses the flooding impact and stormwater management of the site.

**- END OF REASONS FOR REFUSAL -**

**ITEM 4**





**LOCALITY PLAN**

**DA/56/2021**

**11 Denman Parade, Normanhurst**

**ATTACHMENT 1 - ITEM 4**

## CONSULTANT ASSESSMENT REPORT

### DA/56/2021 - GROUP HOME - 11 DENMAN PARADE, NORMANHURST

---

<b>DA No:</b>	DA/56/2021 (Lodged on 21/01/2021)
<b>Description:</b>	Group Home
<b>Property:</b>	Lot E DP350516, No. 11 Denman Parade, Normanhurst
<b>Applicant:</b>	Ms Mihoko Mitani
<b>Owner:</b>	Ms Mihoko Mitani
<b>Estimated Value:</b>	\$1,337,720

- The application involves demolition of an existing dwelling and ancillary structures and construction of a group home.
- A previous Development Application, DA/128/2018 (for subdivision into two lots, construction of a dwelling and secondary dwelling and change of use of the existing garage to a secondary dwelling) was refused on 30 April 2018 primarily due to unacceptable biodiversity impacts and flooding risk.
- The proposal does not comply with the requirements of *State Environmental Planning Policy (Affordable Rental Housing) 2009*, *Hornsby Local Environmental Plan 2013* and *Hornsby Development Control Plan 2013*.
- A total of nine submissions have been received in respect of the application.
- The application is required to be determined by the Hornsby Local Planning Panel due to an internal conflict of interest with a Council staff member who is involved in the exercise of Council's functions under the *Environmental Planning and Assessment Act 1979*.
- It is recommended that the application be refused.

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#### BACKGROUND

On 30 April 2018, Council refused a development application for the subdivision of one lot into two, construction of a dwelling and secondary dwelling and change of use of the existing garage to a secondary dwelling at the subject property, generally on grounds that the proposal did not comply with flood planning controls in *Hornsby Local Environmental Plan 2013* and *Hornsby Development Control Plan 2013* and had unacceptable biodiversity impacts.

#### SITE

The site is located on the northern side of Denman Parade Normanhurst and contains a single storey dwelling and detached shed in the rear yard. The site is roughly rectangular with a frontage width of 15.24m, a depth of 75.5m and an area of 1,057m<sup>2</sup>. The site has a slight fall of approximately 2m, with

the highest points in the northern and southern corners and the lowest point in the central western portion of the site.

The existing dwelling is set back 36m from the front boundary due to an existing stormwater pipe running across the frontage following the overland flow path. The entire site is identified as a flood control lot.

The site contains mature gardens including various native and non-native shrubs and grasses and trees. The site contains vegetation mapped as Blue Gum Shale Forest and the community type is identified as 'Remnant Trees' and as a threatened ecological community.

The site is not bushfire prone.

The site is not heritage listed and is not in a heritage conservation area. Heritage item 592 Davidson Park is located at 9 Denman Parade, Normanhurst, immediately to the west of the subject site.

The main northern railway corridor adjoins the northern boundary of the site. To the east are townhouse developments (one of which is for over 55s), while the southern side of Denman Parade is generally single dwelling houses. Other land uses on Denman Parade include a retirement village, childcare centre and boys' high school.

## PROPOSAL

The application proposes demolition of the existing house and detached shed and construction of a group home. The group home comprises four units with two bedrooms, open plan kitchen/dining/living areas, bathroom, additional toilet and laundry and a terrace/balcony. There is also a separate staff bedroom with office and ensuite. There is stair and lift access, communal open space on the ground floor, and two staff/visitor parking spaces.

The proposal also includes removal of four (4) of the six (6) trees on site, alteration of the existing driveway access, modifications to the existing stormwater drainage easement, and associated landscaping and civil works.

## 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 *Hornsby Local Environmental Plan 2013 (HLEP)* applies to all land within Hornsby Shire. An assessment of the development against the relevant sections of the *HLEP* is provided below.

#### 2.1.1 Zoning of Land and Permissibility

The subject land is zoned R2 Low Density Residential under the *HLEP*. The objectives of the 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 proposal is consistent with these objectives as it would provide for the housing needs of the community. The proposal is defined as a group home and is permissible in the zone with Council's consent.

#### 2.1.2 Height of buildings

Under Clause 4.3 of the *HLEP* the maximum permissible height for the subject site is 8.5m. The proposal complies with this provision.

#### 2.1.3 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire. The site does not include a heritage item and is not located in a heritage conservation area. Heritage item 592 Davidson Park is located at 9 Denman Parade, Normanhurst, immediately to the west of the subject site. Under Clause 5.10 of *HLEP* the consent authority must “consider the effect of the proposed development on the heritage significance of the item or area concerned” and may “require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item... concerned”.

No Statement of Heritage Impact has been submitted with the Development Application. Within the Statement of Environmental Effects, consideration of heritage is limited to reproduction of the Statement of Significance for the park and a single paragraph:

*The application involves the reconstruction of a stormwater drainage channel traversing the site. The works are designed to slow the existing stormwater entering the park. This will remove the scouring that is currently occurring at the Park that is undermining an existing Blue Gum tree [tree 8]. The arborist report at Annexure 4 concludes that the construction impacts on the Blue Gum trees on the site and the adjacent parkland can be adequately managed to ensure*

*the health and retention of these trees. The proposed development is consistent with the heritage statement of significance to conserve the "fine stand of indigenous forest trees" at Davidson park.*

Notwithstanding the cursory consideration of heritage, the proposed development would not have a significant negative impact on the park's heritage value subject to the retention of trees as per the comments from Council's Tree Management Team (see section 2.9.1 below).

#### **2.1.4 Flood planning**

The subject site is in the Pennant Hills catchment area, which is a sub-catchment of Waitara Creek, which is a tributary of Berowra Creek. The site is mapped in its entirety as flood affected land and the majority of the site is mapped as overland flow area with the exception of the north-eastern corner and the front boundary. TUFLOW model results presented in the Hornsby Floodplain Risk Management Study and Plan (FRMSP) show the site as almost entirely inundated by high hazard floodwaters in the 1% AEP event and completely inundated by high hazard floodwaters in the Probable Maximum Flood (PMF) event.

Within the front setback of the subject site is a stormwater pit and pipe network owned by Council that drains towards a low point on Denman Parade, upstream of the southern side boundary. The stormwater network runs through the site via underground and open channel elements and discharges to a creek within Davidson Park to the west of the site. The creek drains to a railway culvert to the north-west of the site, which acts as a hydraulic control for local catchment flows.

The proposed development includes an open channel to convey upstream flows in lieu of existing piped drainage through the site.

Council engaged Rhelm to conduct an independent review of flooding and stormwater elements of the proposal. Rhelm commented that while elements of the flood modelling were appropriate and reasonable, the use of weir calculations with the assumption of uniform velocity distribution around the Denman Parade low point was overly simplistic and may not be representative of actual flood behaviour in situ. High velocity depths at this location are not adequately addressed.

Clause 6.3 of the *HLEP* was repealed on 14 July 2021 (as part of state-wide changes to flood planning provisions). However, it was still in force when the application was lodged. Under Clause 8 of the *Standard Instrument (Local Environmental Plans) Order 2006*, "the amendments made by an amending order do not apply to or in respect of any development application that was made, but not determined, before the commencement of the amending order".

The objectives of Clause 6.3 are:

- (a) to minimise the flood risk to life and property associated with the use of land,*
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
- (c) to avoid significant adverse impacts on flood behaviour and the environment.*

The development application fails to meet these objectives as it does not minimise the risk to life and property, the development is not compatible with the land's flood hazard, and the proposal has potential to exacerbate adverse impacts on flood behaviour. Compared to a four-bedroom house, an eight-bedroom group home (plus carer's bedroom) is likely to increase the number of residents on the site. The new residents are identified as having long-term disabilities. It could be reasonably expected that these residents would have difficulties in evacuating the site in the event of a flood and would be at greater risk than the general population. The independent review by Rhelm noted that the 2019

modelling prepared for the site by Cardno in 2019 did not include modelling of PMF which is normally required for development to be used by potentially vulnerable populations. Rhelm's review noted that:

*Flooding in an extreme event such as the Probable Maximum Flood (PMF) would see in excess of 1.5m of first floor inundation based on information provided [which] implies a shelter in place strategy via the second floor is suitable for extreme events. This is not an appropriate strategy given the site is likely subject to flash flooding and the disabled residents would not be able to seek second floor refuge in a timely manner.*

Furthermore, Rhelm note that documentation provided by the proponent suggests the building will be of double brick construction but provides no evidence "to indicate the dwelling will be able to withstand floodwater forces in a PMF event".

Documentation provided by the proponent does not adequately address the impacts of climate change, which can only be expected to worsen existing and proposed flood hazards at the site. The flood modelling provided by the applicant appears to be based on a previous proposed development layout rather than the actual group home proposal.

Clause 6.3 states that:

*(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—*

*(a) is compatible with the flood hazard of the land, and*

*(b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*

*(c) incorporates appropriate measures to manage risk to life from flood, and*

*(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*

*(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

It is considered that the proposal (a) is not compatible with the flood hazard of the land, (c) does not incorporate appropriate measures to manage risk to life (noting that overland flooding of 1.5m is not appropriate in a dwelling for disabled persons), and (e) carries a risk of unsustainable social and economic costs to the community. The information supplied is insufficient to enable an assessment of whether the proposal (b) is likely to adversely affect flood behaviour resulting in worsened flood affectation of other properties or (d) is likely to significantly adversely affect the environment.

The proposed development is considered unacceptable due to flooding impacts.

#### **2.1.5 Biodiversity**

It is noted that the subject site is not mapped as terrestrial biodiversity under Clause 6.4 of HLEP, though it is approximately 30m away from such land. Impacts on biodiversity are therefore addressed in section 2.9.2 below.

#### **2.2 State Environmental Planning Policy No. 55 - Remediation of Land**

SEPP 55 requires consent authorities to consider whether a site is contaminated and whether it is (or will be, after remediation) suitable for the proposed purpose. The development application is for a

residential use on an existing residential lot and there are no records of any potential contamination on the site. If the proposal were approved, conditions of consent could be imposed to manage hazardous materials such as asbestos.

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

BASIX Certificate No. 1157656M was submitted with the Development Application and demonstrates that the proposal is capable of complying with the requirements of the SEPP.

### 2.4 State Environmental Planning Policy (Affordable Rental Housing) 2009

Under Clause 46 of ARHSEPP a consent authority must consider the community need for a group home and must not impose conditions of consent only for the reason that the development is a group home.

Under Clause 43 of ARHSEPP a group home proposed by a private entity can be constructed as Complying Development. The stormwater constraints of the subject site preclude this and result in the need for Development Consent.

The proposal's compliance with the requirements of Schedule 2 of ARHSEPP is shown in the table below.

Affordable Rental Housing SEPP			
Control	Proposal	Requirement	Complies
Site area	1,056m <sup>2</sup>	450m <sup>2</sup>	Yes
Frontage to public road			Yes
Street frontage width	15.24m	12m	Yes
Site has a 12m x 12m area			Yes
Site coverage	32%	70%	Yes
Building height	8.5m	8.5m	Yes
Front setback	26.8m	10m	Yes
Front door and window facing road			No
Side setbacks	1.575m	0.91m	Yes
Rear setback	5.45m	8m	No
Setback to public reserve	2.02m	3m	No

Privacy screening	Screen required for habitable room windows and balconies less than 3m from side boundary		Yes
Landscaped area	43% (with 50% at rear)	20% (with 50% at rear)	Yes
Principal private open space	30m <sup>2</sup>	24m <sup>2</sup>	Yes
Car parking	2 spaces	2 spaces	Yes
Vehicle access	Complies with AS2890.1-1993		Yes
Earthworks	<1m for stormwater	1m	No
Access ramps	No steeper than 1:4, complies with AS1428.1		Yes

There are a number of non-compliances with the ARHSEPP controls which are discussed below.

#### 2.4.1 Setbacks

The proposal does not meet the required rear setback of 8m. The SEE proposes an alternate solution, stating that the average rear setback is 8m as it ranges from 12m in the east of the site to 5m in the west. This is due to the non-rectangular boundary and is considered acceptable.

The proposal does not meet the required setback to a public reserve of 3m. The SEE attempts to justify this non-compliance by pointing to the low site coverage and the lesser required setback for dwellings in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2009*. This is not sufficient justification. Selectively choosing development standards from an array of planning instruments and policies is no substitute for adequately considering how development controls are intended to function and mitigating impacts on the locality. A group home is, by definition, not a dwelling house, and dwelling house standards should not be used to assess the impacts of a group home.

#### 2.4.2 Building Articulation

Under the SEPP controls, a group home should have "a front door and a window to a habitable room in a building wall that faces, and is visible from, any primary road". While the front door technically faces a primary road, given that it is set back over 35 metres from the road, any visibility will be, at best, limited.

#### 2.4.3 Earthworks

The earthworks proposed for the new stormwater arrangements – which, as is explained elsewhere in this report, are not satisfactory – exceed the maximum 1m excavation.



## **2.5 State Environmental Planning Policy (Infrastructure) 2007**

Under Clause 85 of State Environmental Planning Policy (Infrastructure) 2007 (the Infrastructure SEPP) local authorities are required to give written notice to the rail authority of any development application adjacent to a rail corridor. The proposal was notified to Sydney Trains, who provided conditions of consent should the development be approved.

## **2.6 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

The Vegetation SEPP essentially replaces Clause 5.9 of *HLEP* and prohibits the clearing of vegetation in non-rural areas of NSW without a permit.

The Independent Biodiversity Assessment prepared by Molino Stewart noted that the Statement of Environmental Effects accompanying the DA adequately addressed the Vegetation SEPP.

## **2.7 Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No. 2 - 1997)**

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 requirements of the Policy.

## **2.8 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 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 in achieving good planning outcomes.

## **2.9 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)*. Section 7.2.3 of HDCP deals with group homes. The desired outcome is “*development with a bulk, scale and intensity that is compatible with the character of the area*” and the prescriptive measure is compliance with the controls in ARHSEPP, which are summarised in the table in section 2.4 above.

### **2.9.1 Tree and Vegetation Preservation**

The Arboricultural Impact Assessment (AIA) submitted with the development application identified six (6) trees on the subject site. Four (4) of these trees are proposed for removal: a Monterey Cypress (Tree 3, non-native), a Lilly Pilly (Tree 6, native), an Illawarra Flame Tree (Tree 2, native) and a Liquidambar (Tree 7, non-native). Trees 3 and 6 have a medium retention value and Trees 2 and 7 have a low retention value. Tree 7 has a wound and decay and the Arboricultural Report accompanying the DA predicts large stem failure in the near future.

The AIA identified a further six trees as potentially impacted by the development, located in Davidson Park and the adjacent property at 15 Denman Parade.

Council's Tree Management Team assessed the proposed development and prepared a Tree Protection Plan which identified a number of trees within and adjacent to the subject site which were not included in the AIA. A group of six trees (1, 4, 5, 8, 9, 10) were identified as satisfying Council's criteria for being a Significant Group. Four Sydney Blue Gums (4, 5, 8, 9) were identified as part of a mapped Endangered Ecological Community. The Tree Management Team consented to the removal of trees 2, 3, 6, 7 and 13 to 21 and specified that trees 1, 4, 5, 8, 9, 10, 11 and 12 must be retained and protected.

On any ordinary site, the proposal would be acceptable subject to the planting of replacement trees. However, as the site is mapped as containing a threatened ecological community (see section 2.9.2 below) the proposal is not supported due to the impacts on this community.

## 2.9.2 Biodiversity

Section 1C.1.1 sets out development controls for biodiversity.

The site contains vegetation mapped as Blue Gum Shale Forest and the community type is identified as 'Remnant Trees' and as a threatened ecological community under the *Environmental Protection and Biodiversity Conservation Act 1999 (Cth)* (EPBC Act) and the *Biodiversity Conservation Act 2016 (NSW)* (BC Act). The scientific name of this community is Blue Gum High Forest in the Sydney Basin Bioregion, which is listed as a Critically Endangered Ecological Community (CEEC) under the BC Act and EPBC Act. The two Sydney Blue Gums and Lilly Pilly recorded on site are part of this vegetation community. The site is also mapped on the NSW Biodiversity Values Map.

The development was referred to Molino Stewart Environmental & Natural Hazards for an Independent Biodiversity Assessment. This assessment noted that the Statement of Environmental Effects adequately addressed *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* (Vegetation SEPP) but did not address the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) or *Biodiversity Conservation Act 2016* (BC Act).

The independent assessment concludes that the proposal does not meet the requirements of the BC Act, EPBC Act or Hornsby DCP because:

- *The site contains Blue Gum High Forest in the Sydney Basin Bioregion, a CEEC.*
- *No assessment of significance has been provided for any impact the development may have on this community or any other threatened species which may utilise the area as required by the BC Act.*
- *No EPBC Act assessment on the impact of the proposal on a Matter of NES has been provided.*
- *No Flora and Fauna Assessment has been provided as required by the DCP.*
- *No detail on how the development has been designed to avoid, minimise and mitigate impacts on vegetation is provided in the SEE.*
- *No assessment of appropriate buffer zones has been provided.*

The independent assessment identifies the need for a Flora and Fauna Assessment to be prepared. This report was supplied by the proponent and an independent review was conducted by Molino Stewart, who concluded that the Assessment did not provide all the required information:

- *The F&F should elaborate on the scope of the development in section 1.1 to better rationalise the management and mitigation measures proposed later in section 6 of the report*
- *The survey effort and methodology should be included in section 2. The author should clarify whether the methodology was in line with the Threatened Biodiversity Survey and Assessment: Guidelines for Development and Activities 2004*
- *The F&F does not provide adequate detail on replanting intentions and how the goal of net improvement as per Council's Biodiversity Conservation strategy will be achieved*
- *The F&F does not explicitly incorporate and maintain a buffer zone to significant flora and fauna, native vegetation on either the subject site or the adjoining land zoned or reserved for public open space as defined in the DCP. However, it should be noted that the author cannot specify that the specified buffer to the EEC can be achieved. Both the existing and the proposed location of the new dwelling (within the hardstand area of existing dwelling) is surrounded by patches of BGHF and as such the provision of a buffer is constrained. The expectations in relation to providing landscape planting and VPA is at Council's discretion / as per its offset requirements.*

It is noted that the principles of Ecologically Sustainable Development (ESD) apply in Australia and New South Wales. ESD includes the precautionary principle, which is defined as:

*Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.*

Based on the information provided by the proponent to date, the application cannot be supported as there is insufficient evidence that the proposal will not have a significant detrimental impact on EEC.

### **2.9.3 Flooding**

Section 1C.3.2 of the DCP sets out controls regarding flooding. The desired outcome is:

- (a) *Development that is located and designed to minimise the risk to life, property and the environment from flooding.*

As per the independent review of the stormwater and flooding impacts conducted by Rhelm, the provided documentation does not address the risk to life and property in floods more severe than the 1% AEP event.

The prescriptive measures are:

*a. Where a development proposal is on land shown as 'Flood Planning areas' on the HLEP Flood Planning Map or is on other land at or below the flood planning level, a comprehensive flood study should be prepared by a qualified hydraulic engineer and is to be submitted with any development application on land that demonstrates that:*

- *The development addresses the provisions of Clause 6.3 of the HLEP, and*
- *The development complies with best practice.*

*b. The overland flow path should not be built upon and should have minimal planting. Development is required to demonstrate that any overland flow is maintained for 1 in 100 year average recurrence interval (ARI) flood.*

*c. All potential pollutants that are stored or detained on-site (such as on-site effluent treatment facilities, chemicals or hazardous materials) should be stored 0.5 metres above 1 in 100 year ARI flood level. Details should be provided as part of any application.*

The provided documentation is not of a standard that could currently be considered best practice. As previously noted, the pre-development modelling is adequate, but the post-development modelling is not. The reports do not address flood hazard or emergency response/evacuation strategies in events more severe than the 1% AEP. The proposal is not satisfactory with regard to the DCP.

#### **2.9.4 Waste Management**

Council's Waste Management Team assessed the proposed application and noted that bins cannot be stacked two bins deep. The bin storage areas need to be enlarged in order for all bins to be accessible and the location of bin storage immediately adjacent to the parking area renders the bins inaccessible. Given the larger issues with the application that cannot be overcome, amended plans were not requested.

#### **2.10 Section 7.12 Contributions Plan**

Hornsby Shire Council Section 7.12 Contributions Plan 2019 – 2029 applies to the development as the estimated cost of works is greater than \$100,000. If the application were approved, an appropriate condition of consent would be recommended requiring the payment of a contribution in accordance with the Plan.

### **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**

Tree and Preservation and Biodiversity are discussed under sections 2.9.1 and 2.9.2 of this report.

##### **3.1.1 Stormwater Management**

Within the front setback of the subject site is a stormwater pit and pipe network owned by Council that drains towards a low point on Denman Parade, upstream of the southern side boundary. The stormwater network runs through the site via underground and open channel elements and discharges to a creek in Davidson Park to the west of the site. The creek drains to a railway culvert to the north-west of the site, which acts as a hydraulic control for local catchment flows. The proposed development includes an open landscaped corridor with modest gradient which, it is claimed in the Statement of Environmental Effects, will "improve the capacity of the stormwater system, reduce stormwater velocity, eliminate existing erosion impacts on the adjacent park and function as a landscape feature for the site".

As discussed in section 2.1.4 and 2.9.3 above, Council engaged Rhelm to conduct an independent review of the proposed stormwater management measures. This review concluded that the modelling and proposed stormwater measures were unsatisfactory.

The proposal is inconsistent with the LEP, DCP and Floodplain Development Manual and should not be supported.

### 3.2 Built Environment

#### 3.2.1 Built Form

The proposal is a two-storey structure, mostly face brick, which presents as a small residential flat building. The property has poor street address as there is a large front setback resulting from the stormwater channel and the main entry is set back even further. The terrace to the first unit (ground floor south) has poor visual and acoustic privacy, being located immediately adjacent to the main entry path and parking spaces.

### 3.3 Social Impacts

The proposed development would provide housing options for people with a disability in an area which currently has a shortage of housing for that demographic. This is consistent with Council's Housing Strategy which identifies the need to provide a mix of housing options to meet future demographic needs in Hornsby Shire.

The location of the development is in close proximity to Normanhurst Station and Normanhurst town centre, providing commercial, recreational, health and education facilities for future residents.

### 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.

### 3.5 Noise Impacts

Council's Environment Protection Team assessed the Development Application and found the information submitted to be sufficient. The assessment notes that "there is no specific legislation to regulate the noise impacts associated with the outdoor areas of group homes". The use of noisy articles on residential premises is regulated under the *Protection of the Environment Operations (Noise Control) Regulation, 2017*. An acoustic report was therefore not deemed necessary.

## 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. The site is identified as flood prone.

### 4.1 Flooding

As discussed in sections 2.1.4 and 3.1.1 above, the proposal is within the overland flow path and does not adequately mitigate risk to life and property resulting from flooding.

For the sake of completeness, this section will consider the Floodplain Development Manual (2005), which is the practical expression of the NSW Government's Flood Prone Land Policy and assists local councils in the management and use of development of flood prone land.

The independent assessment of flood impacts carried out by Rhelm notes that a PMF analysis in the Hornsby FRMSP suggests the site is impacted by high hazard floodwaters in the PMF event and effective flood access would not be provided. As defined in Section L5 of the Floodplain Development Manual (2005), high hazard flows represent:

*...possible danger to personal safety; evacuation by trucks difficult; able-bodied adults would have difficulty in wading to safety; potential for significant structural damage.*

The Rhelm review notes that:

By these definitions and considering a number of the disabled residents of the group home would not be able-bodied, the risk to life associated with the development in a PMF event is considered to be high. Further, no adequate evidence has been provided to suggest that the proposed dwelling will not be at risk of structural failure during this event.

The author agrees with this assessment and finds the application unsatisfactory in regard to flood risk.

## 5. PUBLIC PARTICIPATION

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

### 5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 22 January 2021 and 15 February 2021 in accordance with the Hornsby Community Participation Plan. During this period, Council received nine (9) submissions. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.

Eight (8) submissions objected to the development, generally on the following grounds:

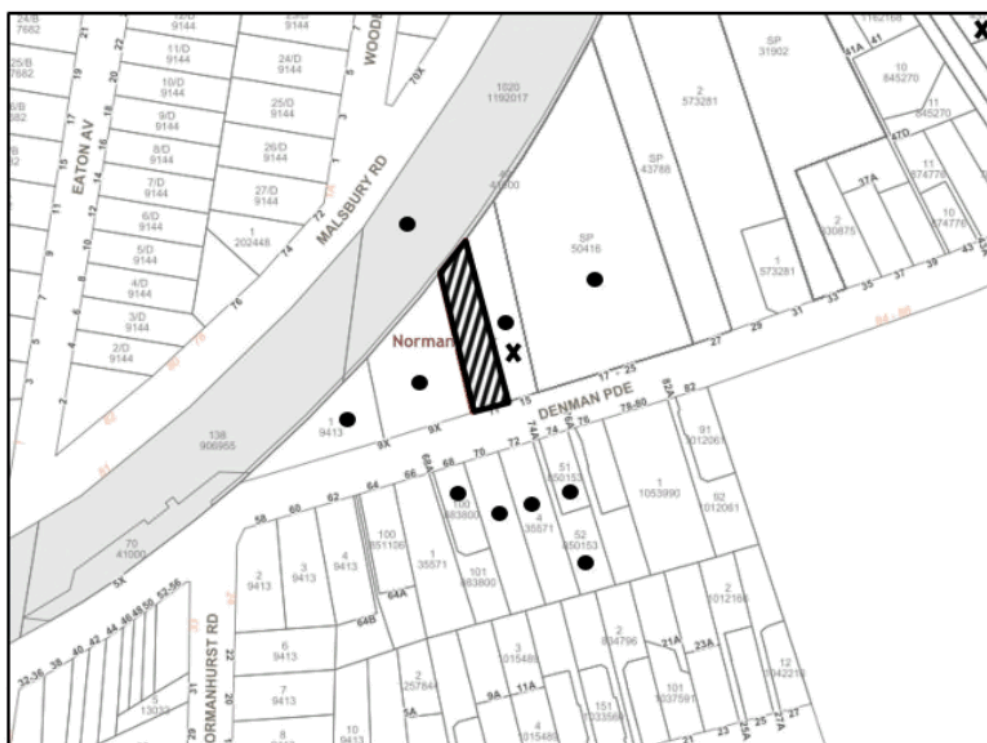
- Stormwater and flooding impacts including lack of consultation on the stormwater easement
- Impacts on vegetation including removal of vegetation along the boundary between 11 and 15
- Privacy concerns relating to the balconies on the first floor on the northern side
- Insufficient onsite parking and increased vehicle movements
- Noise impacts due to the location of the outdoor communal area
- Impacts on views
- Difficulty in interpreting complex technical documentation accompanying the application
- Claimed nuisance behaviour from a resident of a nearby group home
- Noise, dust and pedestrian safety during construction
- Adverse effects on property values

Two of the submissions claimed that there was a fundamental incompatibility between the operation of a group home at this location and the large number of children in the vicinity using the park and going to the nearby school and train station. This assertion and the claims of nuisance behaviour from a nearby group home resident have no merit on planning grounds.



One (1) submission supported the development and made the following observation:

- The development would address a shortage of accommodation suitable for people with a disability in the locality

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



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
2 x SUBMISSIONS RECEIVED OUT OF MAP RANGE + 1 x EDGE OF MAP			
5 x SUBMISSIONS RECEIVED FROM NO. 15 DENMAN PARADE			

### 5.1.1 Privacy Impacts

The proposed balconies comply with the privacy requirements in ARHSEPP, which requires privacy screens for habitable room windows and balconies that are less than 3m from the boundary. The windows are 4m from the boundary so no privacy screens are required. Nonetheless, a privacy screen is proposed for the eastern side of the balcony towards the rear of the site to improve privacy for Unit 3 of the adjoining development at 15 Denman Parade.

### 5.1.2 Parking

The proposal complies with the parking requirements in ARHSEPP.

### 5.1.3 Noise Impacts

The outdoor communal area is broadly in the same location as the private outdoor space of the existing house and there are no grounds to believe that the proposal would result in substantially more noise purely from residents being outside.

### 5.1.4 Construction Impacts

If the proposal were approved, conditions of consent would be imposed to limit impacts arising from construction. It is noted that construction impacts would occur regardless of the nature of the proposed development.

## 5.2 Public Agencies

The development application was referred to one public agency for comment.

### 5.2.1 Sydney Trains

As mentioned above, under Clause 85 of the Infrastructure SEPP the proposal was notified to Sydney Trains, who provided conditions of consent should the development be approved.

## 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 not considered to have satisfactorily addressed Council's criteria and would provide a development outcome that, on balance, would result in a negative impact for the community. Accordingly, it is considered that the approval of the proposed development would not be in the public interest, and refusal would be in the public interest.

## CONCLUSION

The application proposes demolition of the existing dwelling and shed and construction of a group home comprising four two-bedroom units and a bedroom with office and bathroom for staff.

The development does not meet the desired outcomes of Council's planning controls and is unsatisfactory having regard to the matters for consideration under Section 4.15C of the *Environmental Planning and Assessment Act 1979*.

Council received nine (9) 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, refusal of the application is recommended.

The reasons for this decision are:

- The proposed development does not comply with the requirements of *State Environmental Planning Policy (Affordable Rental Housing) 2009*, *Hornsby Local Environmental Plan 2013* and *Hornsby Development Control Plan 2013*.



- 
- The proposed development is not suitable for the subject site, creates unreasonable environmental impacts with regards to biodiversity, and does not adequately address flooding impacts and stormwater management.

*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 Nicola Neil, an independent consultant at Octagon Planning.

**RECOMMENDATION**

THAT Development Application No. DA/56/2021 for demolition of existing structures and construction of a group home at Lot E DP350516, 11 Denman Parade Normanhurst, be refused for the reasons detailed in Schedule 1 of this report.

---

**Schedule 1****Reasons for Refusal**

1. The proposal is unsatisfactory in respect to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the development does not comply with the requirements of Schedule 2 of *State Environmental Planning Policy (Affordable Rental Housing) 2009* with regard to setbacks to public reserves and earthworks.
2. The proposal is unsatisfactory in respect to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the development is not consistent with the development objectives and provisions of Clause 6.3 Flood Planning of the *Hornsby Local Environmental Plan 2013*.
3. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposal does not comply with the desired outcome and the prescriptive measures of *Hornsby Development Control Plan 2013* (HDCP) as follows:
  - a. The proposal does not comply with the prescriptive measures within Part 1C.1.1 (e) and (f) Biodiversity of the HDCP referring to the protection of Endangered Ecological Communities through the use of buffer zones.
  - b. The proposal does not comply with the prescriptive measures within Part 1C.1.2 (c) to (e) Stormwater Management of the HDCP referring to disturbance of natural flow paths.
  - c. The proposal does not comply with the prescriptive measures within Part 1C.3.2 (a) and (b) Flooding of the HDCP referring to the provisions of Clause 6.3 of the *Hornsby Local Environmental Plan 2013* and the management of the overland flow path on the site.
4. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposal would have detrimental environmental impacts on both the natural and built environment in the locality.
5. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, it is considered that the site is not suitable for the proposed development.
6. Pursuant to the provisions of Section 4.15(1)(a)(d) and (e) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development would not be in the public interest.
7. The application fails to include sufficient information that adequately addresses the flooding impact and stormwater management of the site.

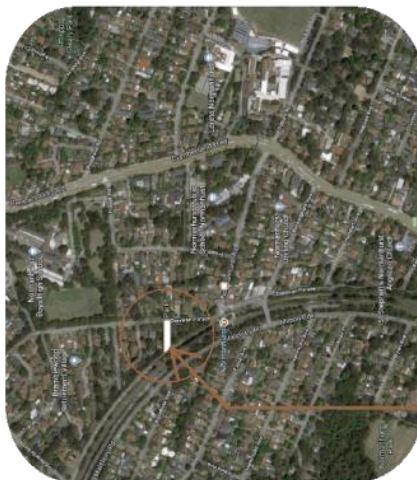
**- END OF REASONS FOR REFUSAL -**

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DA03 -	First Floor Plan
DA04 -	Roof Plan
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DA06 -	North Elevation
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DA13 -	Shadow Diagrams - 12pm June 21
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DA15 -	Site Analysis Plan



1 South East Perspective



11 Denman PDE, 2 Locality Plan  
Normanhurst Scale: 1:10000

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B	ADD PRIVACY SCREENS	RP	10/12/20

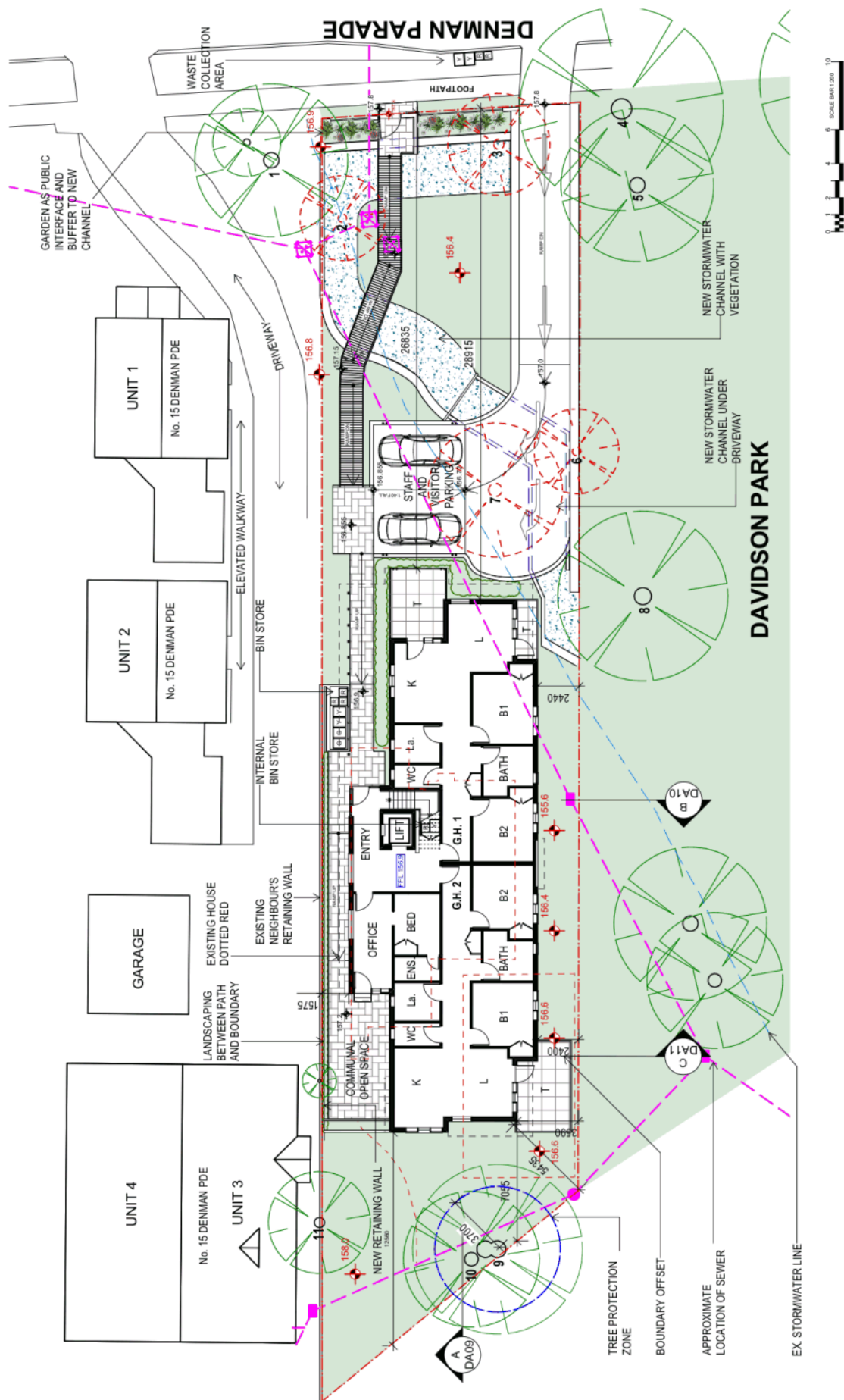
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Cover

Project:  
Proposed Group Home  
11 Denman Parade, Normanhurst

Date: 15/12/20 Scale:  
Drawn: RP  
Checked: RT  
Drawing Number: DA00 Rev: B



# ATTACHMENT 3 - ITEM 4



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REV	DESCRIPTION	BY	DATE
A	DRAFT ISSUE TO PLANNER	RP	25/11/20
B	FINAL DA DRAFT	RP	4/12/20
C	AMEND STORM CHANNEL TO ENG. PLANS	RP	8/12/20

**Title:** Proposed Site Plan  
**Project:** Proposed Group Home  
 11 Denman Parade, Normanhurst

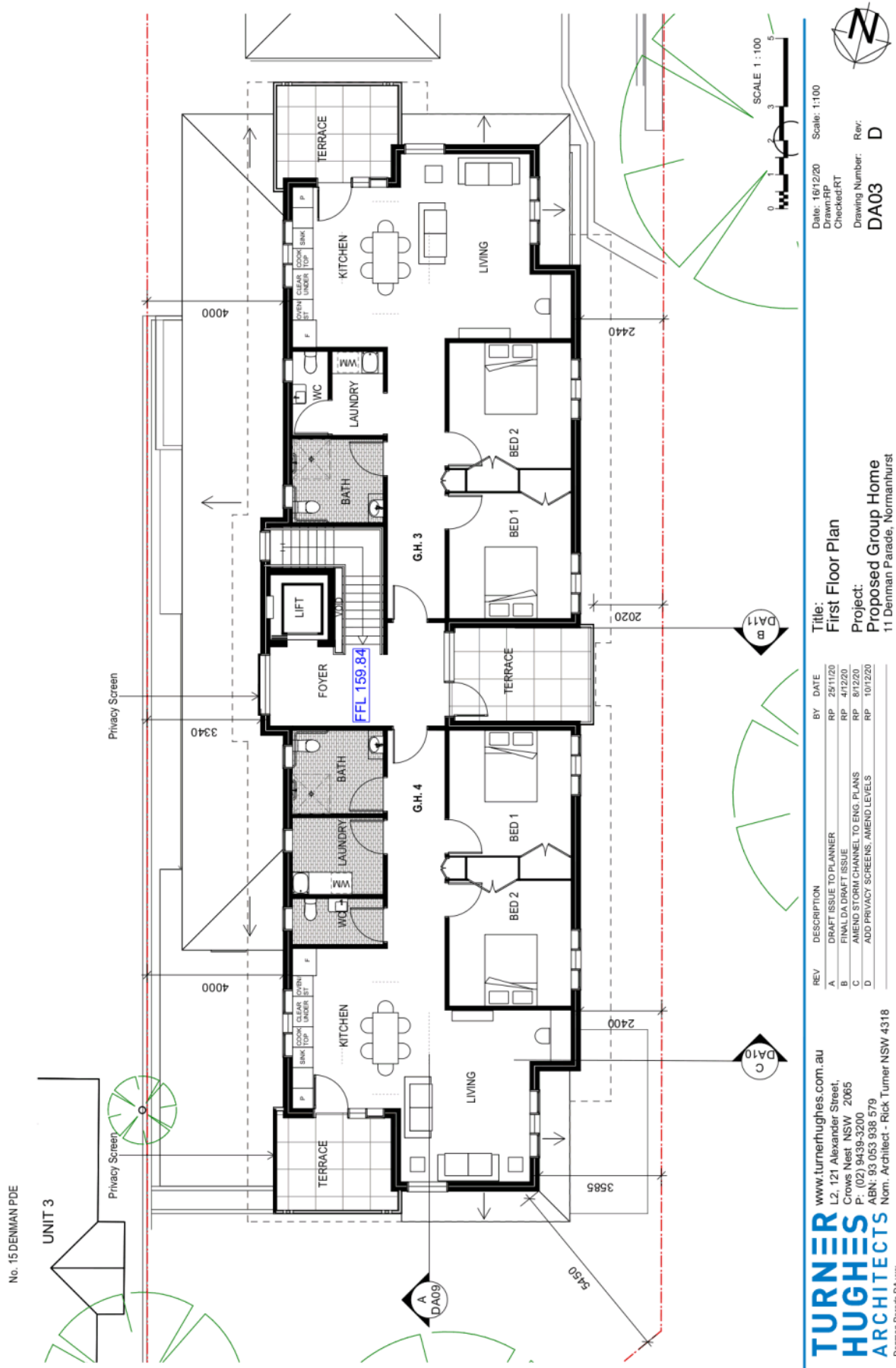
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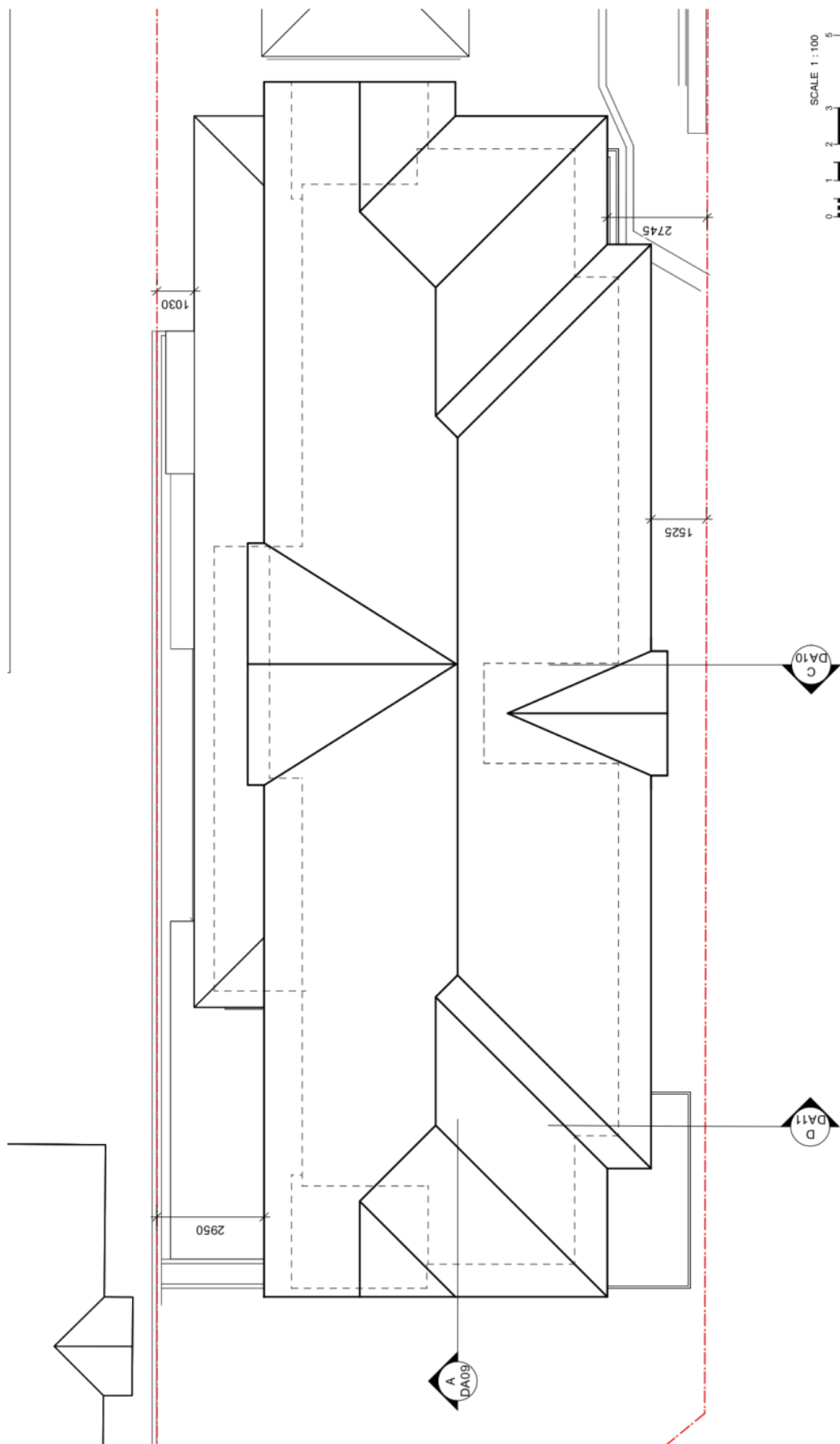
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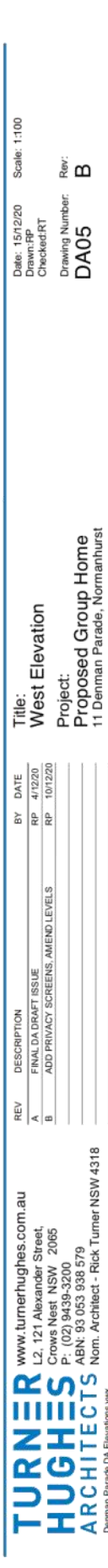
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**Title:** Roof Plan  
**Project:** Proposed Group Home  
 11 Denman Parade, Normanhurst

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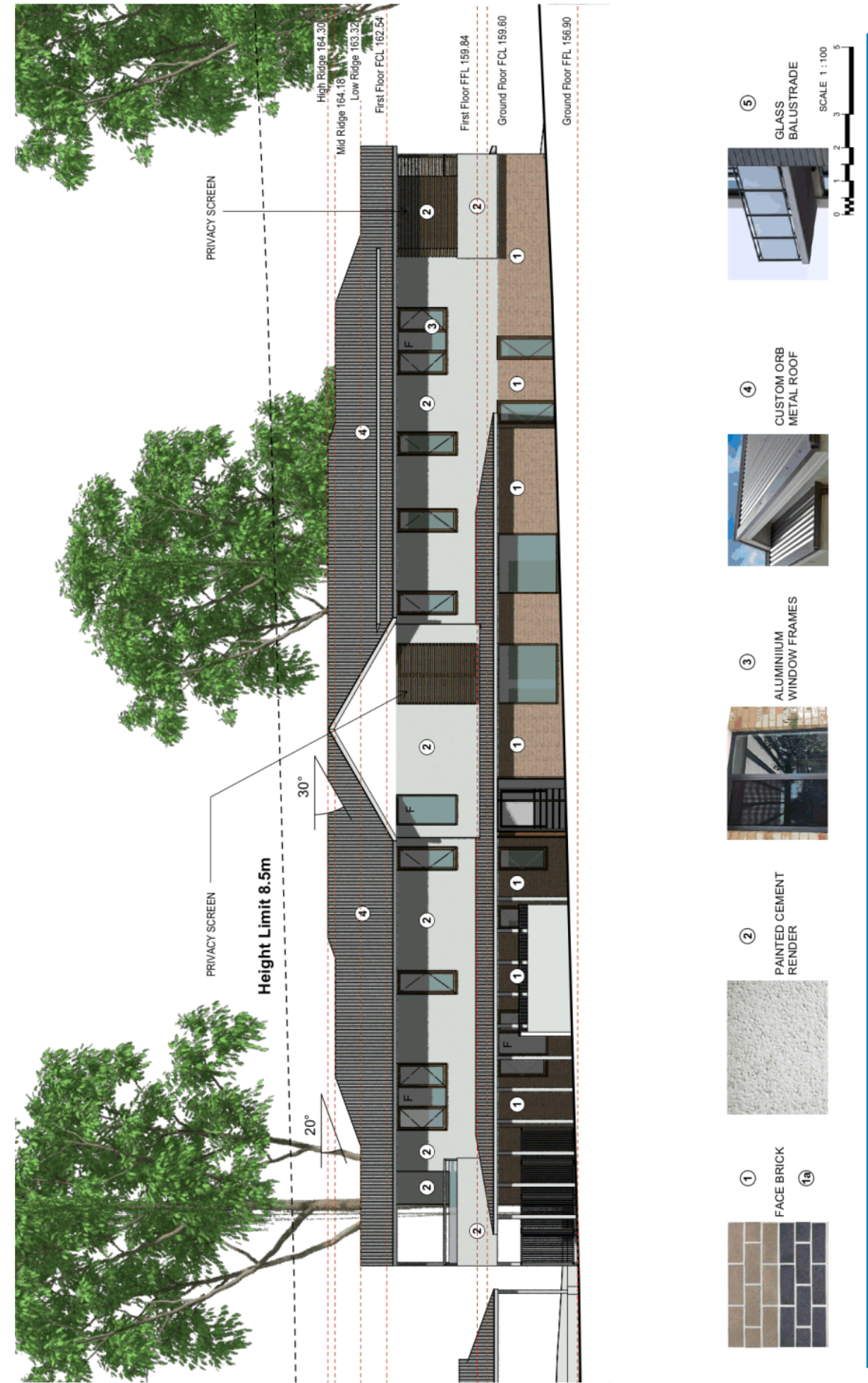
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REV	DESCRIPTION	BY	DATE
A	FINAL DA DRAFT ISSUE	RP	4/12/20
B	ADD PRIVACY SCREENS, AMEND LEVELS	RP	10/12/20

Title: East Elevation

Project: Proposed Group Home  
11 Denman Parade, Normanhurst

Date: 15/12/20  
Drawn: RP  
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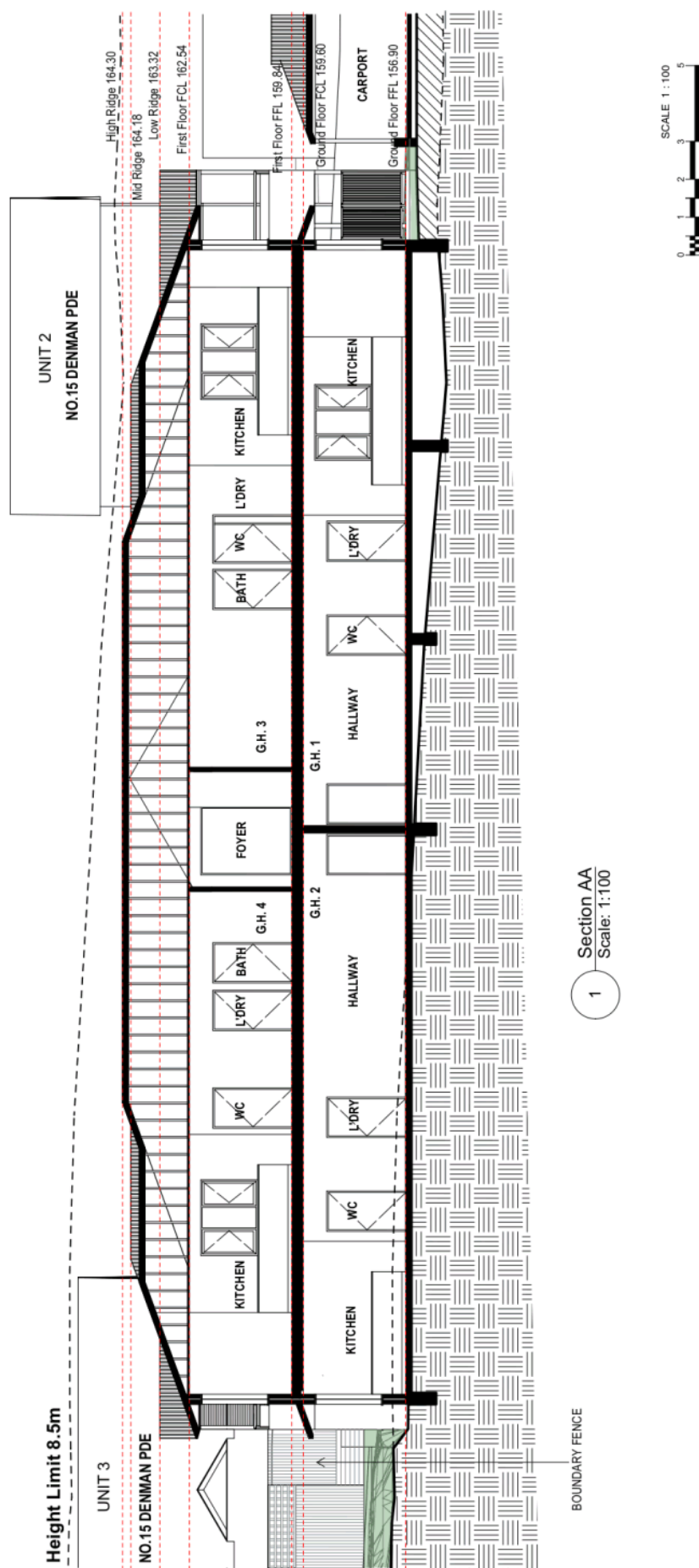
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1 Section AA  
Scale: 1:100

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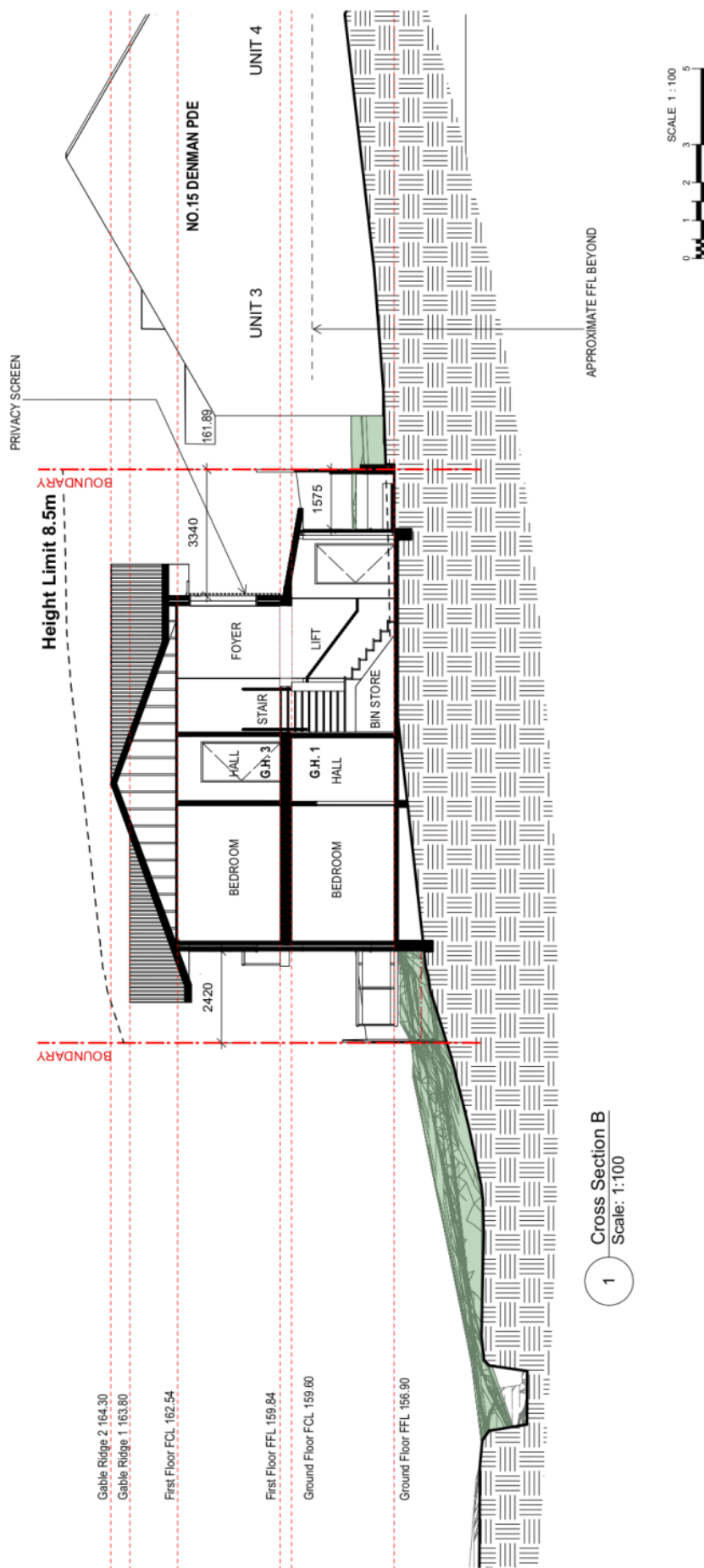
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Project:  
Proposed Group Home  
11 Denman Parade, Normanhurst

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 SCALE 1:100

# ATTACHMENT 3 - ITEM 4



1 Cross Section B  
Scale: 1:100

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B	ADD PRIVACY SCREENS, AMEND LEVELS	RP	10/12/20

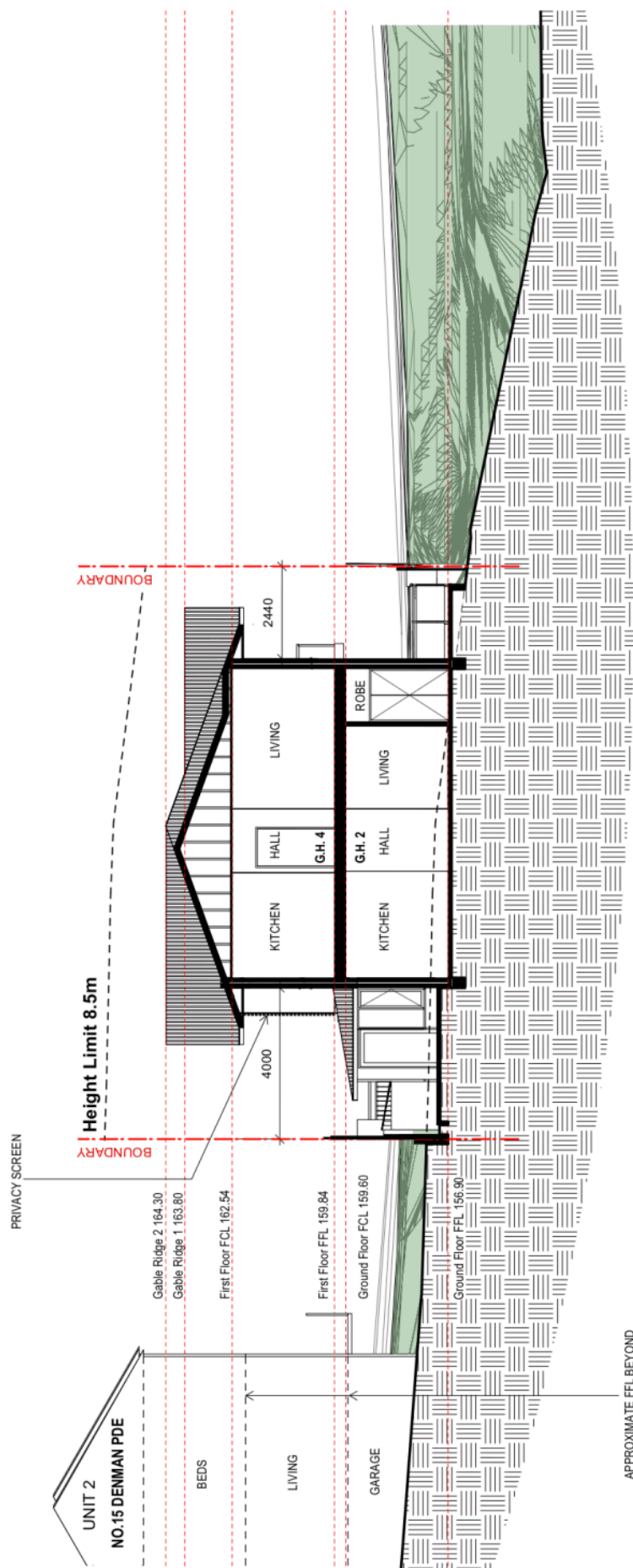
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Proposed Group Home  
11 Denman Parade, Normanhurst

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Scale: 1:100

# ATTACHMENT 3 - ITEM 4



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Rev: A

Title: Section CC

Project: Proposed Group Home  
11 Denman Parade, Normanhurst

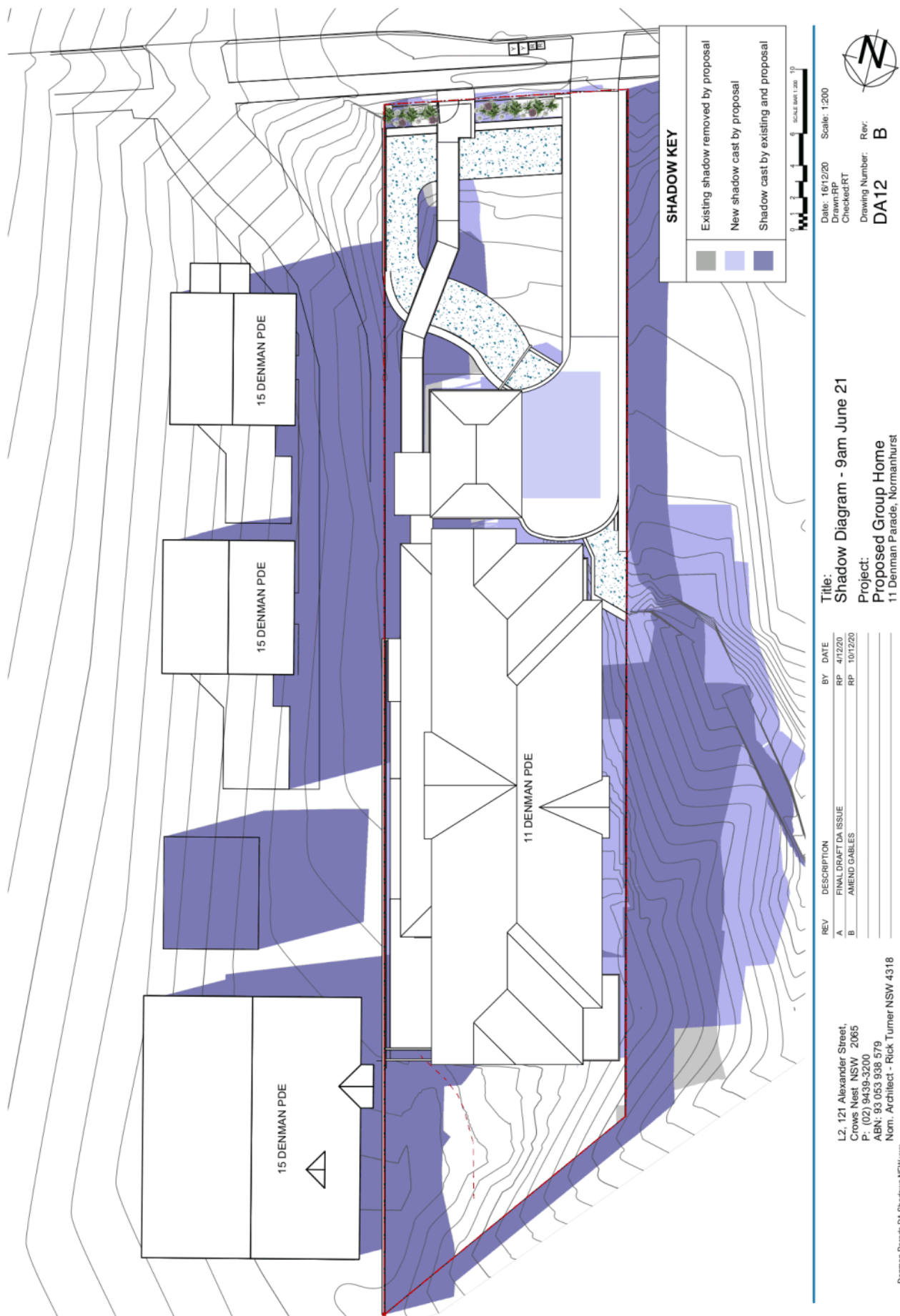
REV	DESCRIPTION	BY	DATE
A	FINAL DA DRAFT ISSUE	RP	4/12/20

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Checked: RT

Drawing Number: DA14

Rev: B



Title:  
Shadow Diagram - 3pm June 21

Project:  
Proposed Group Home  
11 Denman Parade, Normanhurst

REV	DESCRIPTION	BY	DATE
A	FINAL DA DRAFT ISSUE	RP	4/12/20
B	AMEND GABLES	RP	10/12/20

L2, 121 Alexander Street,  
Crows Nest NSW 2065

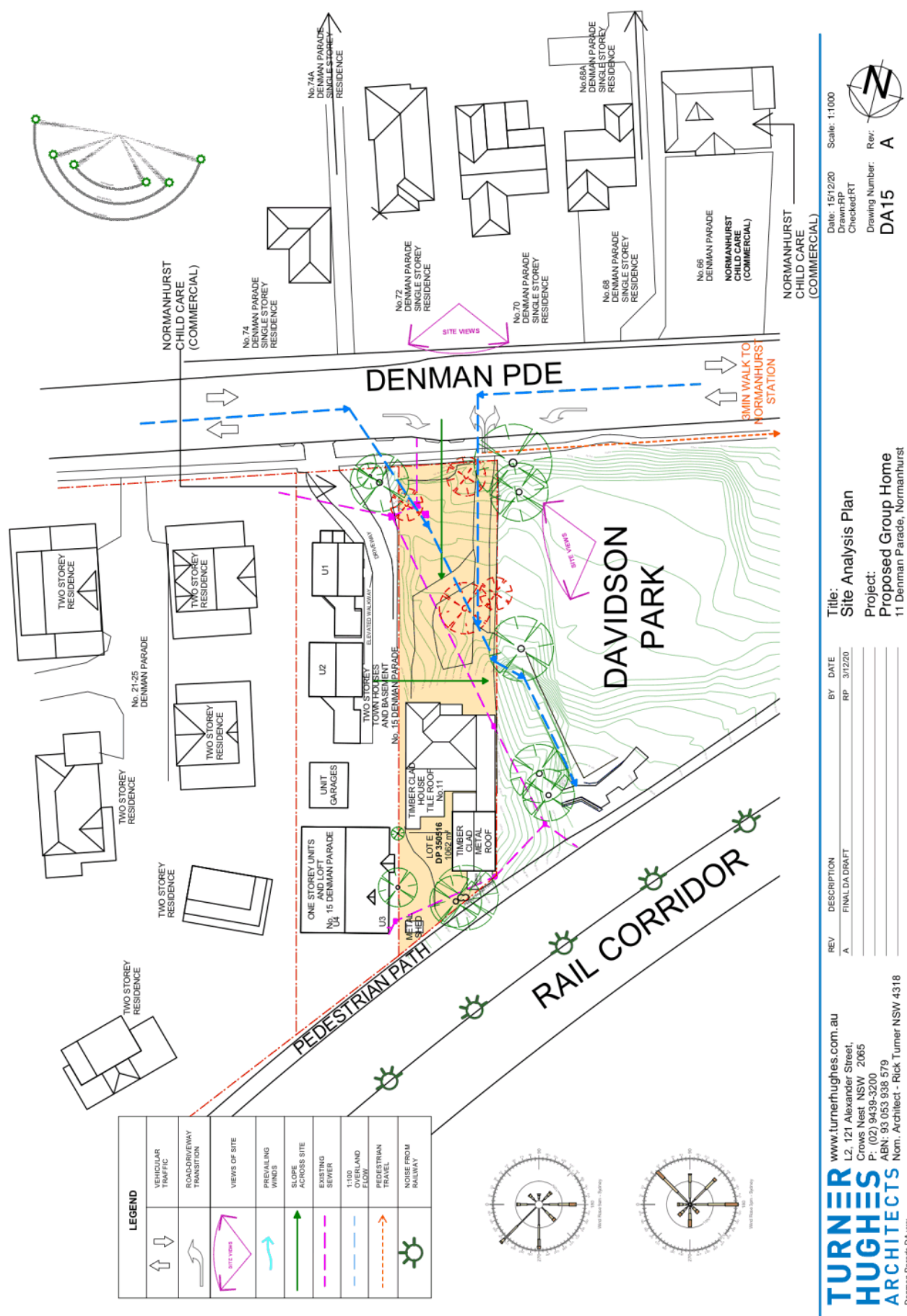
P: (02) 9439-3200

ABN: 93 053 938 579

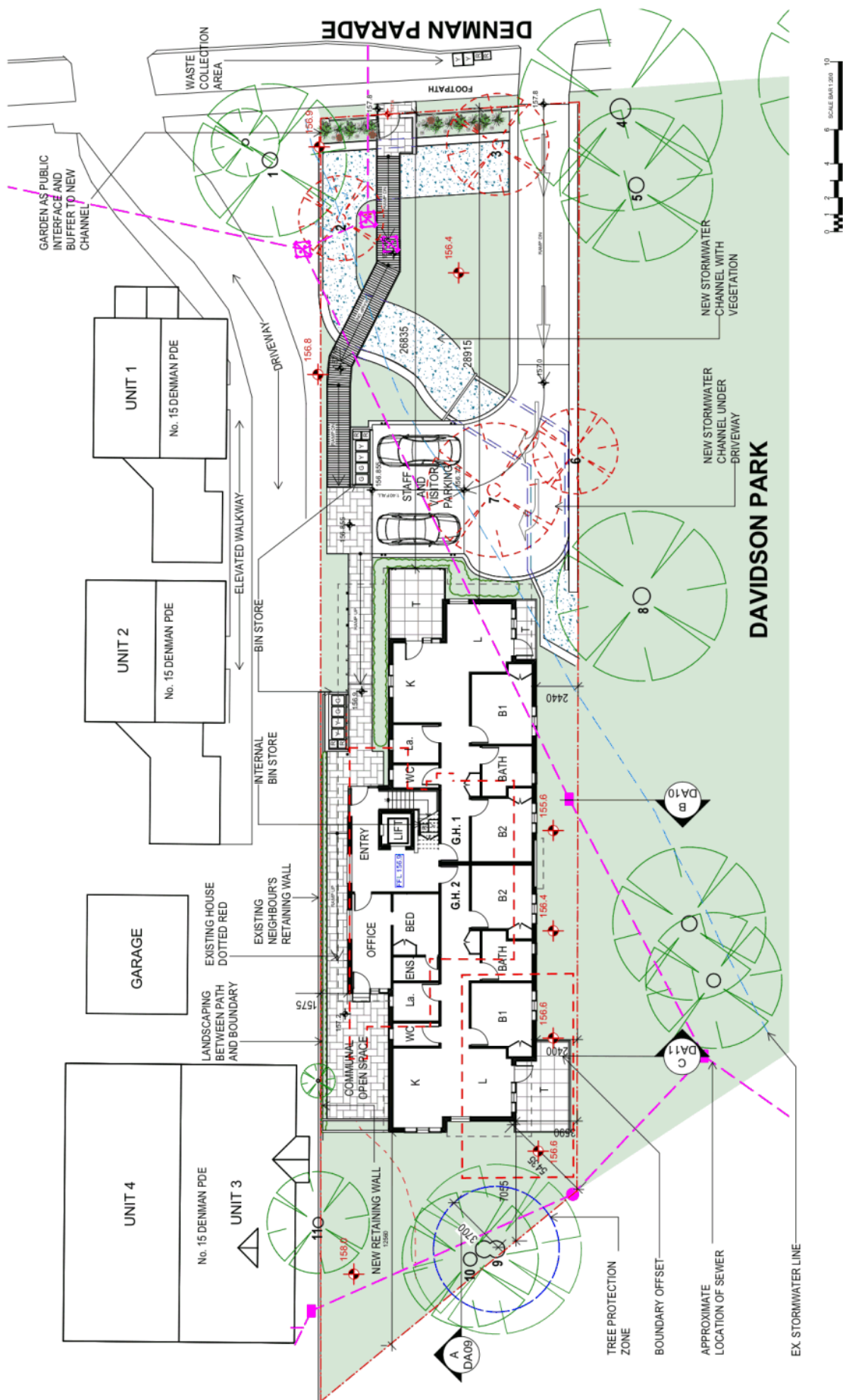
Nom: Architect - Rick Turner NSW 4318

Denman Parade DA Shadows NEW.vdw  
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# ATTACHMENT 3 - ITEM 4



# ATTACHMENT 3 - ITEM 4



# ATTACHMENT 4 - ITEM 4

**5 ELECTRONIC - REPORTING DEVELOPMENT APPLICATIONS FOR DETERMINATION BY THE HORNSBY LOCAL PLANNING PANEL OVER 180 DAYS**

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**EXECUTIVE SUMMARY**

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

**RECOMMENDATION**

THAT the contents of LPP Report No. LPP33/21 be received and noted.

## PURPOSE

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

## DISCUSSION

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

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

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

The changes will speed up panel determinations by:

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

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

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

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

**CONCLUSION**

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

**RESPONSIBLE OFFICER**


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

JAMES FARRINGTON

Director - Planning and Compliance

Planning and Compliance Division

**Attachments:**

1.  LPP DAs over 180 days - October



2021

File Reference: F2013/00295-003

Document Number: D08259650



## List of development applications required to be determined by the LPP that are over 180 calendar days from lodgement

DA No.	Proposal	Address	Ward	Reason	Est. Date to LPP	Advice to Chair	No. Days at 27/10
<b>DA/416/2020</b>	10-12 storey mixed use building accommodating retail tenancies at the ground floor level, commercial tenancies at the first floor level, a residential care facility at levels 3-11, a residential apartment at level 12 and strata subdivision	228-234 Pacific Highway Hornsby	B	>10% contravention of height development standard	February	Applicant finalising a legal agreement for the revised ROW for the adjoining site and submission of an amended CTMP.  Sydney Trains concurrence outstanding - applicant liaising with them regarding requirements and detailed drawings.  RMS concurrence in response to revised plans submitted is outstanding.	513
<b>DA/528/2020</b>	Concept development application for shop top housing comprising a ground level drive thru KFC restaurant and 35 units in a 5 storey building	409-411 Pacific Highway Asquith	A	SEPP 65 Affected Development	February	Amended plans notified and reviewed by DEP. Applicant requested to undertake further refinements to address minor issues raised by DEP.	477
<b>DA/581/2020</b>	Alterations and additions to an existing industrial building strata subdivision of one lot into five	35E Sefton Road, Thornleigh	B	>10% contravention of height development standard and > 10 submissions	February	Applicants legal advice under review.  Application under assessment.	463

## ATTACHMENT 1 - ITEM 5

## List of development applications required to be determined by the LPP that are over 180 calendar days from lodgement

DA No.	Proposal	Address	Ward	Reason	Est. Date to LPP	Advice to Chair	No. Days at 27/10
DA/1146/2020	Torrens title subdivision of 1 into 10	90-92 Franklin Road Cherrybrook	C	VPA	April	Revised VPA submitted for review and referral to Council	330
DA/20/2021	Demolition of structures and construction of a 5 storey shop top housing development with basement parking	5 Wongala Cres Beecroft	C	>10% contravention of height development standard and SEPP 65 Affected Development	November	Applicant preparing final amended plans to address minor issues following community and Council feedback Application under assessment.	288
DA/131/2021	Construction of a Boarding House	Lot B - 134 Burdett Street Wahroonga	B	>10 submissions	December	Under assessment	261
DA/133/2021	Construction of a Boarding House	Lot A - 134 Burdett Street Wahroonga	B	>10 submissions	December	Under assessment	261
DA/137/2021	Construction of a dwelling house	38A Malton Road Beecroft	C	>10 submissions	December	Awaiting revised plans to address panel deferral.	259
DA/161/2021	Construction of a dwelling house	38B Malton Road Beecroft	C	>10 submissions	December	Awaiting revised plans to address panel deferral.	252
DA/357/2021	Temporary use of the site as a function centre	4 Henstock Road Arcadia	A	>10 submissions	December	Peer review of submitted acoustic report to be undertaken. Under assessment	198

## ATTACHMENT 1 - ITEM 5