



BUSINESS PAPER

LOCAL PLANNING PANEL MEETING

**Wednesday 24 November 2021
at 6:30pm**



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Local Planning Panel

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**1 DA/688/2021 - COMMUNITY FACILITY AND STORAGE AREA - PENNANT HILLS PARK,
21X BRITANNIA STREET PENNANT HILLS**

EXECUTIVE SUMMARY

DA No: DA/688/2021 (Lodged on 09/07/2021)

Description: Demolition of a community facility and construction of a community facility and storage area

Property: Lot 1 DP 883213, Pennant Hills Park - 21X Britannia Street Pennant Hills

Applicant: Pennant Hills Junior Australian Football Club

Owner: The State of New South Wales

Estimated Value: \$1,161,800.50.

Ward: Ward B

- The site is owned by the State of NSW. In accordance with Council's adopted Policy '*Proposed Council Developments*' an independent assessment of the development application has been undertaken Nexus Environmental Planning as the proposed community facility would become a Council owned asset upon completion.
- The proposed community facility would be compliant with the requirements of the relevant environmental planning instruments and policies, including the *Hornsby Local Environmental Plan 2013* and the Hornsby Development Control Plan 2013.
- A total of 33 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 proposed community facility would become a council asset upon completion and consequently Council has a financial interest in the proposed development. Additionally, 10 or more unique submissions were received by way of objection.
- It is recommended that the application be approved.

RECOMMENDATION

THAT Development Application No. DA/688/2021 for the demolition of a community facility and construction of a community facility and storage area at Lot 1 DP 883213, Pennant Hills Park - 21X Britannia Street Pennant Hills, be approved, subject to the conditions of consent detailed in Schedule 1 of LPP Report No. 36/21.

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 as Hornsby Shire Council has a financial interest in the proposed development. The report by *Nexus Environmental Planning* is held at Attachment 1 of this report.

CONCLUSION

The application proposes the demolition of a community facility and construction of a community facility and storage 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*.

Council received 33 submissions during the public notification period. The matters raised have been addressed in the consultant's assessment report.

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

The reasons provided by Nexus Environmental Planning for this decision are:

- The proposed development generally complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013.
- The proposed development has adequately provided for the retention and conservation of significant vegetation on the site and would not result in adverse impacts to any locally significant vegetation community, wildlife corridor, threatened species habitat or remnant endangered ecological communities.

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 the report is Neil Kennan from *Nexus Environmental Planning*.

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

ROD PICKLES
Manager - Development Assessments
Planning and Compliance Division

Attachments:

1.  Consultant Report
2.  Locality Map
3.  Collated Plans

File Reference: DA/688/2021

Document Number: D08282675

ITEM 1

SCHEDULE 1**ITEM 1****GENERAL CONDITIONS**

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

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

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

1. Approved Plans and Supporting Documentation

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

Approved Plans:

Plan No.	Plan Title	Drawn by	Dated	Council Reference
A101a	Construction Management Plan	Delve Design	8/10/2021	
A101a	Demolition Plan	Delve Design	30/06/2021	
A-100 Issue N	Ground Floor Plan	Ausco	1/09/2021	
A-200 Issue N	Elevations	Ausco	1/09/2021	
A101	Stormwater Plans	Delve Design	03/05/2021	

Supporting Documentation:

Document Title	Prepared by	Dated	Council Reference
Plan of Management Version No. 2.1	Pennant Hills Community Sports	7/10/2021	D08268229
Waste Management Plan Sports and Community Facility Version 2	Pennant Hills Park Sports Facility	6/10/2021	D08268227
Bushfire Assessment Report	Building Code & Bushfire Hazard Solutions Pty Ltd	12/04/2021	D08206314
Arboricultural Impact Assessment —	Footprint Green	11/05/2021	D08206312

Ern Holmes Oval (Oval No. 2) Pennant Hills Park			
Flora and Fauna Assessment	Ecoplanning	17/05/2021	D08206302

2. Construction Certificate

- a) A construction certificate must be approved by either Council or a Private Certifying Authority (PCA) prior to the commencement of any works on the site approved under this development consent.
- b) The plans submitted with the application for the construction certificate must not be inconsistent with the plans approved under this development consent.

Note: The consent of Hornsby Shire Council is required prior to the engagement of a Private Certifier.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

3. 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*.

4. Fire Safety Schedule

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

5. Stormwater Drainage

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

- a) Connected directly to Council's street drainage system.

6. Sydney Water – Approval

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

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

7. Identification of Survey Marks

A registered surveyor must identify all survey marks in the vicinity of the proposed development. Any survey marks required to be removed or displaced as a result of the proposed development shall be undertaken by a registered surveyor in accordance

with Section 24 (1) of the *Surveying and Spatial Information Act 2002* and following the Surveyor General's Directions No.11 – "Preservation of Survey Infrastructure".

8. Construction Management Plan (CMP)

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

The CMP must include the following details:

- a) A Construction Traffic Management Plan (CTMP) including the following:
 - i) The CTMP plans shall be in accordance with all other plans submitted to Council as part of this development proposal.
 - ii) A statement confirming that no building materials, work sheds, vehicles, machines or the like shall be allowed to remain in the road reserve area without the written consent of Hornsby Shire Council.
 - iii) The Plan shall be in compliance with the requirements of the Roads and Maritime Services *Traffic control at work sites Manual 2018* and detail:
 - a. Public notification of proposed works.
 - b. Long term signage requirements.
 - c. Short term (during actual works) signage.
 - d. Vehicle Movement Plans, where applicable.
 - e. Traffic Management Plans.
 - f. Pedestrian and Cyclist access and safety.
 - iv) Traffic controls including those used during non-working hours. Pedestrian access and two-way traffic in the public road must be able to be facilitated at all times.
 - 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 this will be achieved.
 - vi) Confirmation that a street 'scrub and dry' service will be in operation during all stages of works.
 - vii) Proposed truck routes to and from the site including details of the frequency of truck movements for all stages of the development.
 - viii) Swept path analysis for ingress and egress of the site for all stages of works.
 - ix) Site plans for all stages of works including the location of site sheds, concrete pump and crane locations, unloading and loading areas, waste and storage areas, existing survey marks, vehicle entry, surrounding pedestrian footpaths and hoarding (fencing) locations.

- x) The total quantity and size of trucks for all importation and exportation of fill on site throughout all stages of works, and a breakdown of total quantities of trucks for each stage of works.
 - xi) The number of weeks trucks will be accessing and leaving the site with excavated or imported fill material.
 - xii) The maximum number of trucks travelling to and from the site on any given day for each stage of works.
 - xiii) The maximum number of truck movements on any given day during peak commuting periods for all stages of works.
 - xiv) The Plan must state that the applicant and all employees of contractors on the site must obey any direction or notice from the Prescribed Certifying Authority or Hornsby Shire Council in order to ensure the above.
 - xv) If there is a requirement to obtain a Work Zone, Out of Hours permit, partial Road Closure or Crane Permit, the Plan must detail these requirements and include a statement that an application to Hornsby Shire Council will be made to obtain such a permit.
- b) A Construction Waste Management Plan detailing the following:
- i) Details of the excavation of soil and fill, the classification of the fill, disposal methods and authorised disposal depots that will be used for the fill.
 - ii) Asbestos management requirement and procedures for removal and disposal from the site in accordance with AS 2601–2001 – *‘The Demolition of Structures’*, and the *Protection of the Environment Operations (Waste) Regulation 2005*.
 - iii) General construction waste details including construction waste skip bin locations and litter management for workers.
- d) A Tree Protection Plan (TPP) prepared by an AQF 5 Arborist in accordance with any approved Arboricultural Impact Assessment and tree location plans, detailing the following:
- i) A site plan showing tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and specific details of tree protection measures inclusive of distances (in metres) measured from tree trunks.
 - ii) Construction methodology to avoid damage to trees proposed to be retained during construction works.
 - iii) Specifications on tree protection materials used and methods within the TPZ or SRZ.
 - iv) Location of dedicated material storage space on site outside of TPZ’s and SRZ’s for retained trees.
- e) A Construction Noise and Vibration Management Plan (CNMP) which includes:
- i) Details of the extent of rock breaking or rock sawing works forming part of the proposed development works, if any proposed.

- ii) The duration of each stage of works where the maximum level of noise and vibration are predicted to be emitted for.
- iii) Details of mitigation measures, inclusive of respite periods, that will meet acoustic standards and guidelines at each stage of works.
- iv) Details of a complaints handling process for the surrounding neighbourhood for each stage of works.
- f) Identification of approved sediment and erosion control measures.
- g) The CMP must detail the contact information for developers, builder, private certifier and any emergency details during and outside work hours.
- h) 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.

9. Pedestrian Management near Construction Activity

To ensure pedestrian and community safety within the park and along adjoining paths during construction prior to the issue of a construction certificate, a separate Pedestrian Management Plan is to be submitted for approval by Hornsby Council's Manager Parks and Trees & Recreation. As a minimum it is to ensure that pedestrian movement through the adjacent carparking area is facilitated in a safe way.

Note: The Pedestrian Management Plan is to be sent to Council via hsc@hornsby.nsw.gov.au marked to the attention of the Manager, Parks, Trees & Recreation.

10. Temporary Storage

Suitable temporary storage is to be provided for sporting equipment stored on site during the construction period. This storage is to be approved in writing by Hornsby Council's Manager, Parks, Trees & Recreation Branch prior to the issue of a construction certificate.

Note: Form and location of the temporary storage solution is at Council's discretion. Prior to any works beginning on site the applicant is to contact the Manager Parks, Trees & Recreation via hsc@hornsby.nsw.gov.au for written approval as to the satisfaction of this condition.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

11. 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.

12. Protection of Adjoining Areas

- a) 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:
 - i) Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic.
 - ii) Could cause damage to adjoining lands by falling objects; and/or.
 - iii) Involve the enclosure of a public place or part of a public place.
 - iv) Have been identified as requiring a temporary hoarding, fence or awning within the Council approved Construction Management Plan (CMP).
- b) To ensure safety for sportsground users all construction fencing is to be a minimum of 3 metres from the edge of the field of play and outside of the oval fences. Access to the vehicle maintenance gates for the park is to be maintained at all times.

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

13. 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*.

14. 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.

15. Garbage Receptacle

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

16. Protection of Vegetation, Habitat and Environmental Features During Construction

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

- a) Install a 1.2-metre-high chain wire fencing (or similar) in accordance with the Tree Protection Plan as shown on sheet 9 of the Arboricultural Impact Assessment, prepared by Footprint Green, dated 11 May 2021.
- b) Clean machinery of soil and debris before entering the site to prevent the spread of weeds and fungal pathogens.

Note: The site contains vegetation which is characteristic of Sydney Turpentine Ironbark Forest which is listed as a Critically Endangered Ecological Community under the NSW Biodiversity Conservation Act 2016. The Act prohibits the disturbance to threatened species, endangered populations and threatened ecological communities, or their habitat, without appropriate consent or licence.

REQUIREMENTS DURING DEMOLITION CONSTRUCTION

17. Construction Work Hours

All works on site, including demolition and earth works, must only occur between 7am and 4pm Monday to Saturday.

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

18. 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 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.

19. Construction Activities Prohibited on Playing Fields

- a) To ensure no damage to playing fields during construction, construction related vehicular or pedestrian access is prohibited across the oval playing areas unless separately approved by Hornsby Council's Manager Parks Trees & Recreation.
- b) All vehicles, plant and machinery are to remain inside the construction fence area.

20. 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*.

21. 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.

22. Disturbance of Existing Site

During construction works, the existing ground levels of open space areas and natural landscape features, including natural rock-outcrops, vegetation, soil and watercourses must not be altered unless otherwise nominated on the approved plans.

23. Excavated Material

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

24. Importation of Fill Prohibited

No fill is permitted to be imported to the site.

25. Council Property

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

Note: This consent does not give right of access to the site via Council's park or reserve. Should such access be required, separate written approval is to be obtained from Council.

26. Compliance with Construction Management Plan and Pedestrian Management Plan

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

27. Unexpected Finds

Should the presence of asbestos or soil contamination, not recognised during the application process be identified during any stage of works, the applicant must immediately notify the PCA and Council.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION

28. 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.

29. Fire Safety Statement – Final

In accordance with the *Environmental Planning and Assessment Regulation 2000*, upon completion of the building, the owner must provide Council with a certificate in relation to each fire safety measure implemented in the building.

30. Damage to Council Assets

To protect public property and infrastructure, any damage caused to Council's assets as a result of the construction or demolition of the development must be rectified by the applicant in accordance with AUS-SPEC Specifications.

www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions

Rectification works must be undertaken prior to the issue of an Occupation Certificate, or sooner, as directed by Council.

31. 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*.

32. Plan of Management - Details to be Amended Prior to the Issue of an Occupation Certificate

- a) The Plan of Management, dated 7/10/21, Version No. 2.1 must be amended as follows:
 - i) The Section titled Facility users and numbers must state 'a maximum of 25 people are permitted to use the multipurpose community room at any time'.

- ii) The Section titled Alcohol consumption must state 'alcohol will not be sold, served or consumed on site at any time'.
- iii) The sentence which reads 'Events/meetings and training will not be permitted after 10pm seven (7) days a week' must be removed from the Section titled Noise Abatement and be replaced with the sentence 'all on site activities, inclusive of meetings and training, must cease at or before 10pm each day'.
- iv) The Section titled Management of the Facility must state 'the facility must not be used for functions.'
- v) The Section titled Management of the Facility must clearly identify how persons subject to the Plan of Management will be made aware of the plan and its requirements (i.e. written agreement, terms and conditions of hire etc);
- vi) A detailed complaint management procedure must be included in the Plan of Management. The Complaint procedure must include the name and contact phone number for registering of complaints, as well as the location of signage to be erected at the facility displaying these details.
- vii) The Plan of Management must detail the measures to be taken to ensure the Plan of Management is adhered to at all-times inclusive of protocols for any breaches of the Plan of Management (e.g. right to ban, security for certain events, loss of deposit etc);
- viii) The amended Plan of Management must be submitted to Council's Compliance Team for review and approval prior to the issue of an Occupation Certificate and is required to 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.

33. Food Premises

- a) The fit out and operation of any part of the building to be used for the manufacture, preparation or storage of food for sale, must be in accordance with *Australian Standard AS4674-2004 Design and fit out of food premises*, the *Food Act 2003*, and the *Food Regulation 2015 and the Food Standards Code developed by Food Standards Australia New Zealand*. *Food Standards 3.2.2 and 3.2.3* are mandatory for all food businesses.

Note: Walls are to be of solid construction.

- b) Prior to the commencement of the business, the operator is required to contact Council's Public Health Team to arrange for a Health Officer to carry out an inspection of the premises to ensure compliance with the *Australian Standard AS4674-2004 Design and fit out of food premises*, the *Food Act 2003*, *Food Regulation 2015* and the *Australia New Zealand Food Standards Codes*.
- c) A letter of compliance provided by Hornsby Shire Council's Health Officer must be submitted to the Principal Certifier prior to an occupation certificate being issued.

Note: Council's Public Health team can be contacted on 02 9847 6014.

ITEM 1

34. 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.

35. 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.

36. Construction – Bushfire Requirements

- a) The approved building is to be upgraded for ember protection in accordance with the requirements of Section 8 of the Bushfire Assessment Report, prepared by Building Code and Bushfire Hazard Solutions, dated 12 April 2021. This is to be achieved by enclosing all openings or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders and external roller doors fitted with relevant seals.
- b) Provision of electricity and gas are to comply with the recommendations contained within Section 8 of the Bushfire Assessment Report prepared by Building Code and Bushfire Hazard Solutions, dated 12 April 2021.
- c) A suitably qualified bushfire consultant is to provide the PCA with a certificate confirming compliance with this condition prior to the issue of an Occupation Certificate.

37. Restorations and Landscaping

All areas disturbed as part of the construction activity are to be restored with turf or other suitable material as required to the satisfaction of Hornsby Council's Manager Parks, Tree & Recreation.

OPERATIONAL CONDITIONS

38. Use of Premises

The development approved under this consent shall be used as a *community facility* and not for any other purpose without Council's separate written consent.

39. Hours of Operation

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

- a) Monday to Sunday (inclusive of Public Holidays) 7 am to 10 pm.
- b) All deliveries must take place within the approved hours of operation.

40. Emergency Management – Bushfire

That a Bushfire Emergency Management Plan is prepared and reviewed every 5 years or following a bushfire event. This Plan will include provisions to close the clubhouse facilities on days of declared 'Extreme' and 'Catastrophic' fire danger rating or when directed by fire authorities (NSW Rural Fire Service or NSW Fire & Rescue). Fire authorities can also give direction for the facilities to open regardless of the fire danger rating.

41. Use of the Multi-purpose Community Room

The Multi-purpose Community Room, as identified on the approved Architectural Plans, must be operated in accordance with the following requirements, unless otherwise approved in writing by Council:

- a) The multi-purpose community room must not be used for functions at any time.
- b) A maximum of 25 people are permitted to use the multi-purpose community room at any one time.
- c) The use of amplified music and public address systems is not permitted within the multi-purpose community room at any time.
- d) Alcohol must not be served, sold or consumed within the multi-purpose community room.

42. Compliance with Plan of Management

The Council approved Plan of Management must be complied with at all times during operation of the development, unless otherwise approved by Council.

43. Replacement Tree Requirements

- a) The trees approved for removal under this consent must be offset through replacement planting of a minimum 16 trees characteristic of Sydney Turpentine Ironbark Forest including Blackbutt (*Eucalyptus pilularis*), Red mahogany (*Eucalyptus resinifera*), Sydney peppermint (*Eucalyptus piperita*), Red Bloodwood (*Corymbia gummifera*), Smooth-barked Apple (*Angophora costata*) and Turpentine (*Syncarpia glomulifera*).
- b) Location of Plantings must comply with the following requirements:
 - i) All replacement trees must be located in the surrounds of Ern Holmes and Pennant Hills Oval No.1.
 - ii) Planting methods must meet professional (best practice) industry standards.
- c) Plant stock used for offset planting shall be sourced from a native nursery utilising Sydney basin stock.

- 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

A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation protected under the Hornsby Development Control Plan 2013 without the authority conferred by a development consent or a permit granted by Council.

Notes: 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).

Tree protection measures and distances are determined using the Australian Standard AS 4970:2009, "Protection of Trees on Development Sites".

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

Disability Discrimination Act

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

Dial Before You Dig

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

Asbestos Warning

Should asbestos or asbestos products be encountered during demolition or construction works, you are advised to seek advice and information prior to disturbing this material. It is recommended that a

contractor holding an asbestos-handling permit (issued by *SafeWork NSW*) be engaged to manage the proper handling of this material. Further information regarding the safe handling and removal of asbestos can be found at:

www.environment.nsw.gov.au

www.adfa.org.au

www.workcover.nsw.gov.au

Alternatively, telephone the *SafeWork NSW* Asbestos and Demolition Team on 8260 5885.

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.

ITEM 1

2 DA/1018/2021 - CONSTRUCTION OF A SHED, USE OF THE SHED AS HOME INDUSTRY AND CONSTRUCTION OF A FRONT FENCE - 86 QUARRY ROAD DURAL

EXECUTIVE SUMMARY

DA No: DA/1018/2021 (Lodged on 1 October 2021)

Description: Construction of a shed, use of the shed as home industry and construction of a front fence

Property: Lot 2, DP 619812, No. 86 Quarry Road, Dural

Applicant: Mr Jamil Nassif

Owner Mrs Bianca Nassif

Estimated Value: \$100,000

Ward: A Ward

- The application involves the construction of a shed, use of the shed as home industry and construction of a front fence.
- A total of thirteen submissions have been received in respect of the application.
- The application is required to be determined by the Hornsby Council Local Planning Panel as 10 or more unique submissions were received by way of objection.
- It is recommended that the application be refused.

RECOMMENDATION

THAT Development Application No. DA/1018/2021 for construction of a shed, use of the shed as home industry and construction of a front fence at Lot 2, DP 619812, No. 86 Quarry Road, Dural be refused, for the reasons detailed in Schedule 1 of LPP Report No. LPP37/21.

BACKGROUND

On 21 March 2019, Council refused DA/41/2019 for alterations and additions to a dwelling house on the following grounds:

1. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposal does not comply with the zone objectives of the Hornsby Local Environmental Plan 2013 in that the proposed development would result in unacceptable environmental and amenity impacts to the locality.
2. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposal does not comply with the desired outcomes and the prescriptive measures under the Hornsby Development Control Plan 2013 (HDCP).
 - 2.1 The proposal does not comply with Part 1C.1.1 Biodiversity of the HDCP which encourages development that provides for the conservation of biodiversity including threatened species and populations, endangered ecological communities, remnant indigenous trees, regionally and locally significant terrestrial and aquatic vegetation. The proposal would have an unacceptable environmental impact on the biodiversity and native vegetation that exists on the site.
 - 2.2 The proposal does not comply with Part 1B.6.1 Tree Preservation of the HDCP which encourages the protection of trees. The proposal would have an unacceptable environmental impact on a significant group of trees that exist on the site.
 - 2.3 The proposal does not comply with Part 1C.2.4 Effluent Disposal of the HDCP as insufficient information has been provided in relation to the location, site capability and system design and outlining the most suitable wastewater system for the site.
3. The proposal does not meet the requirements of the Biodiversity Conservation Act 2016 and is inconsistent with the Hornsby Shire Council Biodiversity Conservation Strategy 2006.
4. Pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not suitable for the proposed development given its unacceptable environmental and amenity impacts.
5. Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the development would not be in the public interest as the proposal would have unacceptable environmental and amenity impacts.

On 8 April 2019, Council issued a Stop Work Order pursuant to Item No. 2 of Part 1, Schedule 5 of the Environmental Planning and Assessment Act 1979 to cease carrying out all unauthorised works that required prior consent, including but not limited to the following:

- External hardstand area fronting the dwelling, identified in blue in Figure 1, labelled area A.
- The enclosing of the courtyard area located on the south western portion of the subject dwelling, identified in red in Figure 1, labelled B.
- The enclosing of the two courtyard areas located on the southern portion of the subject dwelling, identified in red in Figure 1, labelled C & D.
- Internal alterations altering the configuration of the dwelling.
- Excavation, land clearing, tree and vegetation removal and landform modification works occurring at the subject premises.

On 27 February 2020, Council approved BC/68/2019 relating to unauthorised alterations and additions to a dwelling house and detached garage.

To date, numerous compliance matters relating to activities on the site have been investigated with regard to unauthorised land clearing, landform modifications and allegations of illegal dumping and the site being used as a depot.

On 29 July 2020, Council refused DA/271/2020 for alterations and additions to a dwelling house, construction of a rural shed, a driveway, a front fence with gate and the enclosure of a carport on the following grounds:

1. *Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal does not comply with the land use objectives for the RU2 Rural Landscape zone and Clause 6.2 Earthworks of the Hornsby Local Environmental Plan 2013 given that it is unclear what use is being proposed for the shed, and insufficient details have been provided with regard to the level of earthworks on the site.*
2. *Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal does not comply with the Biodiversity Conservation Act 2016 given that the proposed development would result in unacceptable environmental and biodiversity impacts to threatened species.*
3. *Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal does not comply with the State Environmental Planning Policy (Koala Habitat Protection) 2019 given that the proposed development would result in unacceptable environmental and biodiversity impacts to the habitat of the Koala.*
4. *Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposal does not comply with the desired outcomes and the prescriptive measures under the Hornsby Development Control Plan 2013 (HDCP).*
 - 4.1 *The proposal does not comply with Part 1C.1.1 Biodiversity of the HDCP which encourages development that provides for the conservation of biodiversity including threatened species and populations, endangered ecological communities, remnant indigenous trees, regionally and locally significant terrestrial and aquatic vegetation. The proposal would have an unacceptable environmental impact on the biodiversity and native vegetation that exists on the site.*
 - 4.2 *The proposal does not comply with Part 1B.6.1 Tree Preservation of the HDCP which encourages the protection of trees. The proposal would have an unacceptable environmental impact on a significant group of trees that exist on the site.*
 - 4.3 *The proposal does not comply with Part 2.1.2 Setbacks of the HDCP as the proposed northern side setback of 6.318 metres does not comply with the 10-metre prescriptive measure.*
 - 4.4 *The proposal does not comply with Part 2.1.3 Landscaping of the HDCP as the proposed front fence contravenes the desired outcomes and prescriptive measures of this element and would detract from the largely open, rural streetscape of Quarry Road.*
5. *Pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not suitable for the proposed development given its unacceptable environmental and amenity impacts.*

6. Pursuant to the provisions of Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the development would not be in the public interest as the proposal would have unacceptable environmental and amenity impacts.

On 10 November 2020, Council provided pre-lodgement advice for the construction of a front fence and alterations and additions to a dwelling house.

On 1 October 2021, Council approved DA/812/2021 for alterations and additions to a dwelling house, subject to conditions.

SITE

The 24,090m² site is located on the eastern side of Quarry Road Dural and contains a single storey dwelling house, a detached carport, an outbuilding and an above ground swimming pool.

The site is burdened by a restriction as to user 15 metres wide and variable along the northern, eastern and southern boundaries of the property.

The site is mapped as bushfire prone land and being a Koala habitat under *State Environmental Planning Policy (Koala Habitat Protection) 2019*.

The site adjoins the Berowra Valley National Park to the north, east and south.

The site is not served by the sewers of Sydney Water.

PROPOSAL

The application proposes the construction of a 250m² shed within the south western portion of the site.

The application proposes the use of the shed as a home industry to store and park vehicles and equipment for the owner's excavation and piling business.

A 1.8-metre-high metal front fence with masonry block piers and black powder coated chain-wire fence is proposed along the Quarry Road frontage.

No trees would be removed by the development; however, some would be impacted.

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.

Planning Priority N18 - Better managing rural areas. In giving effect to A Metropolis of Three Cities, this Planning Priority delivers on the following objective and the corresponding strategies:

- Objective 29 - Environmental, social and economic values in rural areas are protected and enhanced.

The proposed construction of a shed and use of the shed as a home industry would not be inconsistent with this objective.

2. STATUTORY CONTROLS

Section 4.15(1)(a) requires Council to consider *“any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and regulations”*.

2.1 Hornsby Local Environmental Plan 2013

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

2.1.1 Zoning of Land and Permissibility

The subject site is zoned as RU2 Rural Landscape under the *HLEP*. The objectives of the RU2 zone are:

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

The application proposes the construction of a 250m² shed for the purpose of a home industry.

The *HLEP* defines a home industry as *an industrial activity, whether or not involving the sale of items online, carried on in a dwelling, or in a building ancillary to a dwelling, by 1 or more permanent residents of the dwelling and not involving the following:*

- The employment of more than 2 persons other than the residents.*
- Interference with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise.*
- The exposure to view, from adjacent premises or from a public place, of unsightly matter.*
- The exhibition of signage, other than a business identification sign.*

- (e) *The retail sale of, or the exposure or offer for retail sale of, items, whether goods or materials, not produced at the dwelling or building, other than by online retailing.*

Section 2.1 of the Statement of Environmental Effects prepared by SDA Architects states that:

“the shed will comply with these conditions to satisfy the requirements of a home industry. The explicit use of the shed is for storage purposes only. There will be no operational activities conducted within the shed or any manufacturing/ fabrications/ employment of any external contractors or employees to be attending this shed for a daily role.”

As no manufacturing or industry would be conducted within the site the proposed use of the shed would not meet the definition of a ‘home industry’. In addition, the application has not addressed how the home industry would not interfere with the amenity of adjoining properties in regard to noise and traffic impacts.

Clause 5.4(3) Controls relating to miscellaneous permissible uses of the *HLEP* states:

“if development for the purposes of a home industry is permitted under this Plan, the carrying on of the home industry must not involve the use of more than 200 square metres of floor area.”

The application proposes a 250m² shed for the purpose of a home industry which would not comply with Clause 5.4(3) of the *HLEP*.

As the application proposes the storage of vehicles, house materials and equipment for the owner’s excavation and piling business, the proposal meets the definition of a ‘depot’.

The *HLEP* defines a ‘depot’ as:

“as any activity 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”.

Consequently, the application cannot be supported as the proposal does not meet the definition of a ‘home industry’ and a ‘depot’ is a prohibited use in the RU2 Rural Landscape zone under the *HLEP* 2013.

2.1.2 Height of Buildings

Clause 4.3 of the *HLEP* provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 10.5 metres. The proposed development has a height of 8.5 metres and 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 contain a heritage listed item, is not within the vicinity of a heritage listed item and is not located within a heritage conservation area. Accordingly, no further assessment regarding heritage is necessary.

2.1.4 Earthworks

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

Council's assessment of the proposed works and excavation concludes that a maximum of 0.8 metres of fill and 0.5 metres of cut is required to create a levelled area for the proposed shed which would be retained by retaining walls.

It is generally considered that the proposed cut and fill is minimal and would not have any adverse environmental or amenity impacts to adjoining properties.

Should the application be approved, conditions would be recommended ensuring that any fill material being brought onto the site be classified as Virgin Excavated Natural Material (VENM). A similar condition would be recommended for any excavated material that may be removed from the site.

The application meets the requirements of Clause 6.2 of the *HLEP* and is considered acceptable.

2.2 State Environmental Planning Policy No. 55 Remediation of Land

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

The site has been historically used for residential purposes and there is no evidence that the site has been used for agriculture with associated use of fertilisers or pesticides. It is not likely that the site has experienced any significant contamination, and further assessment under *SEPP 55* is not required.

2.3 State Environmental Planning Policy (Koala Habitat Protection) 2019

State Environmental Planning Policy (Koala Habitat Protection) 2019 (SEPP KHP) aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

The Policy requires that Council must consider whether land of more than one hectare includes any trees belonging to the feed tree species listed in Schedule 2 for the relevant koala management area, or is core koala habitat, before granting consent to development.

The proposed development does not propose the removal of any trees and would not impact on any koala habitat.

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

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

Should the application be approved, 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.

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

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

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

2.6 Hornsby Development Control Plan 2013

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

HDCP – Part 2.1 Rural Buildings			
Control	Proposal	Requirement	Complies
Site Area	24,090m ²	N/A	N/A
Building Height	8.532m	10.5m	Yes
No. storeys	2	max. 2 + attic	Yes
Site Coverage	5%	On merit	Yes
Floor Area (Home Industry)	250m ²	200m ² (max)	No
Setbacks			
- Front (north west)	55m	15m	Yes
- Side (south west)	11.5m	10m	Yes
- Rear (south east)	140m	15m	Yes
Landscaped Area (% of lot size)	>90%	On merit	Yes

As detailed in the above table, the proposed development complies with the prescriptive measures of the HDCP. The matters of non-compliance are detailed below, as well as a brief discussion on compliance with relevant desired outcomes.

2.6.1 Scale

In accordance with Clause 5.4(3) of the HLEP, the maximum size of a home industry must not involve the use of more than 200 square metres of floor area.

The application proposes a 250m² shed for the purpose of a home industry which would not comply with Clause 5.4(3) of the HLEP.

2.6.2 Landscaping

The desired outcomes of Part 2.1.3 Landscaping of the HDCP is for “*landscaping that is consistent with the visual landscapes in the rural area*”.

This is supported by the prescriptive measures for fences and gates which states:

- “(f) *Frontages/streetscapes should not contain excessively urban features such as formal gates and high fences.*
- “(g) *Fences should be open style and constructed of materials such as timber or post and wire, with a maximum height of 1.8 metres.”*

The application proposes the construction of a 1.8-metre-high metal fence with masonry block piers along the southern end of the Quarry Road frontage and a black powder coated chain-wire fence along the northern end.

This proposed front fence is not consistent with the desired outcomes and prescriptive measures within the Hornsby DCP as it would not be of an open style design and the prescribed materials have not been incorporated within the design.

The proposed fence would detract from the largely open, rural streetscape of Quarry Road and would set an undesirable precedent for similar style fencing in what is otherwise an open, rural setting/character.

The proposal does not meet the desired outcomes of Part 2.1.3 Landscaping of the HDCP and is considered unacceptable.

2.6.3 Effluent Disposal

The desired outcome of Part 1C.2.4 Effluent Disposal of the HDCP is to encourage that *“sewage is disposed of in a manner that minimises impacts on the natural and built environment and public health.”*

This is supported by the prescriptive measure which states that *“areas that are not serviced by the Sydney Water reticulated sewerage system are required to dispose of wastewater using a NSW Health Department accredited Sewage Management Facility.”*

The site is not served by the sewers of Sydney Water and all household wastes are collected and treated on site. The proposed structure would not be located in the vicinity of the existing onsite sewage treatment area.

The proposal meets the desired outcome of Part 1C.2.4 Effluent Disposal of the HDCP and is considered acceptable.

2.6.4 Noise and Vibration

The desired outcome of Part 1C.2.5 Noise and Vibration of the HDCP is to ensure that *“Development designed and managed to minimise noise and vibration impacts on the occupants of residential dwellings and other noise sensitive land uses.”*

Submissions were received which raised concerns to the increased noise from vehicles entering and exiting the site and vehicle movements along Quarry Road which would have an unacceptable amenity impacts to adjoining properties and the residents of Quarry Road.

Insufficient information has been submitted to identify the number of vehicles or proposed hours of operation for Council to assess if the proposed home industry would create a noise impact to adjoining properties.

2.7 Section 7.12 Contributions Plans

Hornsby Shire Council Section 7.12 Contributions Plan 2019-2029 does not apply to the development as the estimated costs of works is \$100,000.

3. ENVIRONMENTAL IMPACTS

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

3.1 Natural Environment

3.1.1 Tree and Vegetation Preservation

The application includes an Arboricultural Impact Assessment (AIA) has been provided by Apex Tree & Garden Experts dated 2 September 2021 which identifies eleven trees within the vicinity of the proposed development numbered T1 to T11 inclusive.

The application does not propose the removal of any trees through this application, however it is noted that the site has been subject to several land clearing events which have been investigated by Council's compliance team. It is noted that trees have been illegally removed where the proposed shed would be located and no offset planting has been proposed as part of this application.

Tree T1 is identified as a *Eucalyptus maculate* (spotted gum) which is in good form and vigour and is worthy of retention. Further information would be required regarding potential impacts tree T1 from proposed vehicle movements entering and exiting the proposed shed as no formal driveway has been proposed.

Council's tree assessment recommends conditions for the protection and retention of the eleven trees identified within the AIA report should the application be approved.

3.1.2 Stormwater Management

The application includes a stormwater plan prepared by Capital Engineering Consultants dated 6 August 2021 which proposes the stormwater collected by the shed to be diverted to the existing stormwater system of the dwelling house.

It is noted that the existing stormwater dispersal trenches servicing the dwelling house are located approximately 150 metres from the proposed shed and connecting the stormwater system to the existing system would not be sufficient or practical.

If application were to be approved, further information would need to be submitted to address stormwater, including an amended stormwater plan and dispersal trenches located adjacent to the proposed shed.

3.2 Built Environment

3.2.1 Traffic, Vehicle Access and Parking

The HDCP prescribes that industrial uses should have 1 car parking space per 100m² of gross leasable floor area. The floor area of the home industry would be 250m² giving a parking requirement of 3 car spaces.

The submitted plans do not indicate the provision of 3 car parking spaces either within or adjacent to the proposed shed. Furthermore, provision of a suitable access/ driveway to facilitate vehicular access to the proposed shed is not shown on the submitted plans.

Submissions have raised concerns that the proposed construction of a shed and use as a 'home industry' to store excavation and piling vehicles and equipment would create additional traffic along Quarry Road.

The application has not provided any information regarding the number of vehicle movements or number of vehicles and equipment being stored within the shed. Therefore, there is insufficient information to assess the proposed traffic, vehicle access and parking impacts of the proposed development.

3.3 Social Impacts

The development may result in adverse social impacts should the shed be used as a vehicle depot.

3.4 Economic Impacts

The proposal would not impact on the local economy.

4. SITE SUITABILITY

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

4.1 Bushfire Risk

The land is identified as being subject to bushfire risk as outlined in the Bushfire report prepared by Bushfire Planning and Design dated 19 July 2021.

It is noted that the bushfire report also assesses the alterations and additions to the dwelling house which is not part of this application.

The bushfire report recommends that *"all proposed class 10 buildings attached to or within 6 metres of the habitable building shall be constructed from non-combustible materials."*

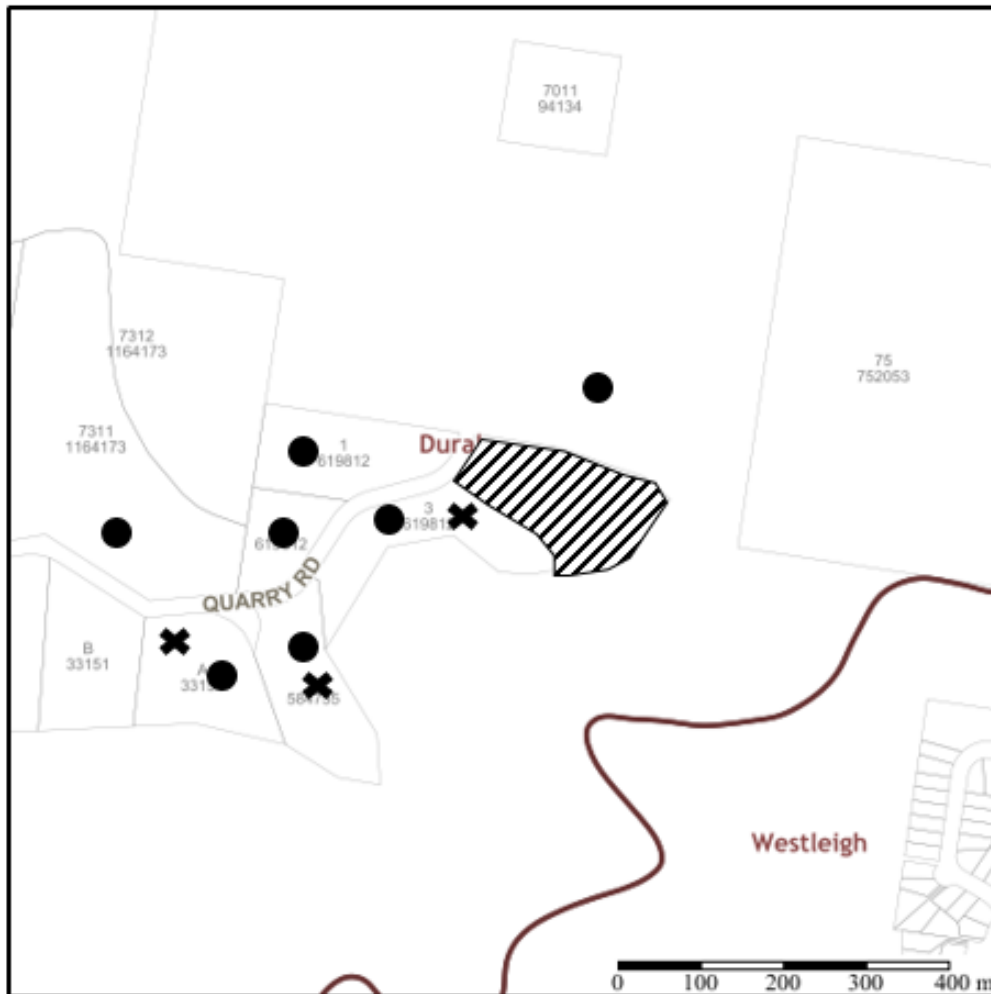
As the proposed shed would be located greater than 6 metres from any habitable buildings on the subject site or adjacent property, no specific construction requirements are required in regard to bushfire.

5. PUBLIC PARTICIPATION



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

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 1 October 2021 and 26 October 2021 in accordance with the Hornsby Community Engagement Plan. During this period, Council received 13 submissions. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

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

Thirteen submissions objected to the development, generally on the grounds that the development would:

- Not be in keeping with the rural characteristic of the area.
- There would be no time limit as to when the trucks enter and exit the site or drive along Quarry Road.
- The application does not comply with the RU2 Rural Landscape zone objectives.
- Stormwater runoff.
- Erosion as no driveway is proposed.
- Noise.
- Unacceptable traffic on local roads.

- Danger to pedestrians along Quarry Road.
- Use of shed as a home industry.
- Development that is excessive in bulk and scale.

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

5.2 Public Agencies

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

6. THE PUBLIC INTEREST

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

The proposal does not satisfactorily address 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 refusal of the proposed development would be in the public interest.

CONCLUSION

The application proposes the construction of a shed, use of the shed as home industry and construction of a front fence.

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

Council received thirteen 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 the relevant environmental planning instruments and the Hornsby Development Control Plan 2013.
- The proposed use does not comply with the definition of a home industry and would be a prohibited use.

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 Tim Buwalda.




Attachments:

1. Locality Plan
2. Architectural Plans
3. Statement of Environmental Effects

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

ROD PICKLES
Manager - Development Assessments
Planning and Compliance Division

Attachments:

1.  Locality Plan
2.  Architectural Plan
3.  Stormwater Plan

File Reference: DA/1018/2021

Document Number: D08286340

SCHEDULE 1

1. In accordance with the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposal does not comply with the land use objectives of the RU2 Rural Landscape zone.
2. In accordance with the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed use does not meet the definition of a home industry and is considered a depot which is a prohibited land use within the RU2 Rural Landscape zone
3. The proposal does not meet Clause 5.4(3) of the *Hornsby Local Environmental Plan 2013* as the proposed home industry would have a floor area greater than 200m².
4. In accordance with the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposal does not comply with the desired outcomes and the prescriptive measures under the Hornsby Development Control Plan 2013 (HDCP).
 - 4.1 The proposal does not comply with Part 2.1.3 Landscaping of the HDCP as the proposed front fence contravenes the desired outcomes and prescriptive measures of this element and would detract from the largely open, rural streetscape of Quarry Road.
5. In accordance with the provisions of the provisions of Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the development would not be in the public interest as the proposal would result in undesirable environmental and amenity impacts.

- END OF REASONS FOR REFUSAL -

ITEM 2