

2 DA/1379/2021 - CONSTRUCTION OF A DWELLING HOUSE - 99A COPELAND ROAD, BEECROFT

EXECUTIVE SUMMARY

DA No: DA/1379/2021 (Lodged on 21 December 2021)

Description: The construction of a two-storey dwelling house on Lot 121 approved under Development Application No. DA/985/2020 (two into four lot subdivision)

Property: Lot 2 DP 444486, No. 99A Copeland Road, Beecroft

Applicant: Doug Sneddon Planning

Owner: Frobat Pty Limited

Estimated Value: \$931,700

Ward: C

- The application involves the construction of a two-storey dwelling house on Lot 121 approved under Development Consent No. DA/985/2020 for Torrens title subdivision of 2 lots into 4 lots.
- The proposal generally complies with the Hornsby Local Environmental Plan 2013 and the Hornsby Development Control Plan 2013.
- A total of 11 submissions have been received in respect of the application.
- The application is required to be determined by the Hornsby Council Local Planning Panel as 10 or more unique submissions were received by way of objection.
- It is recommended that the application be approved as a deferred commencement consent.

RECOMMENDATION

THAT Development Application No. DA/1379/2021 for the construction of a two-storey dwelling house at Lot 2 DP 444486, No. 99A Copeland Road, Beecroft be approved as a deferred commencement pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979* subject to the conditions of consent detailed in Schedule 1 of LPP Report No. LPP35/22.

BACKGROUND**Site History**

On 28 April 2021, Development Application No. DA/985/2020 was approved by the Hornsby Local Planning Panel for the demolition of structures, Torrens title subdivision of two allotments into four lots and construction of a dwelling house at Lots 1 and 2 at Nos. 99 and 99A Copeland Road Beecroft.

On 28 June 2021, Council approved a Section 4.55(1A) application seeking modifications to the approved subdivision involving the rearrangement of the staging of the consent as follows:

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

At the time of writing, a Subdivision Certificate has not been issued for the approved subdivision and the subdivision is not registered with the NSW Land Registry Services.

Application History

On 20 January 2022, Council requested amendments to the Stormwater Plan and the submission of Swept Path Diagram demonstrating that vehicles can enter and exit the proposed garage in a forward direction.

On 20 January 2022, Council's Tree Management Team requested a re-design of the development/ additional information to reduce impacts to tree Nos. T39 and T41. On 3 February 2022, Council received additional information in the form of an addendum letter from the engaged arborist clarifying the impacts to tree Nos. 39 and 41.

On 7 February 2022, Council's Heritage Planner requested amended plans/ additional information to address concerns with the excessive bulk and scale of the proposed dwelling.

To ensure the undertaking of a comprehensive assessment of the building height, Council requested the provision of a Roof Plan with roof RL's overlaid with the Survey Plan contours.

Between 14 February and 22 February 2022, the requested plans were received by Council. The bundle included a letter prepared by Doug Sneddon Planning Pty Ltd justifying a number of the requested amendments, including building height.

On 8 March 2022, Council's heritage assessment of the amended plans determined that the proposal as amended was acceptable on heritage grounds, subject to the submission of an amended landscape plan indicating additional evergreen screen planting on the southwestern corner and additional materials and finishes detail of the proposed retaining walls and fencing.

Between 12 March and 16 March 2022, Council received the requested plans/documentation.

SITE

The existing site is currently described as Lot 2 DP 444486 (No. 99A Copeland Road). The legal description of the site will be revised upon registration of the subdivision with NSW Land Registry Services.

The subject site (approved Lot 121) has an area of 1038.8m² (903.2m² ex. ROW) and is located on the northern side of Copeland Road Beecroft. The site is currently vacant of improvements with the exception of a recently constructed carriageway to the eastern side.

The site experiences a fall of 5 metres to the south-eastern corner, representing an average gradient of 11%.

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

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

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

The site is not bushfire or flood prone.

The site is not burdened by any easements or restrictions. Notwithstanding, a 4m wide and variable width Right of Carriageway has been approved to the eastern side of the site under DA/985/2020 (not yet registered with NSW Land Registry Services).

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

PROPOSAL

The application proposes the construction of a two-storey dwelling house on Lot 121 approved under DA/985/2020 (two into four lot subdivision).

At the time of writing, the subdivision is not registered with the NSW Land Registry Services.

The ground floor level of the dwelling house would include a media room, laundry, powder room, scullery, kitchen, dining room, living room, study, entry, lounge, guest bedroom with ensuite, storage room, alfresco and a semi-detached two car garage outbuilding.

The first-floor level would contain three bedrooms with one ensuite, master bedroom with ensuite, sitting room and bathroom.

A Landscape Plan has been submitted indicating the planting of 4 large canopy trees and a variety of small trees/ shrubs to the perimeter of the site.

The application would necessitate the removal of 1 tree to facilitate the construction of the dwelling house.

ASSESSMENT

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

1. STRATEGIC CONTEXT

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

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

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

The proposed development would be consistent with the Greater Sydney Region Plan - A Metropolis of Three Cities and the North District Plan, by contributing to achieving the dwelling targets for the region.

2. STATUTORY CONTROLS

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

2.1 Hornsby Local Environmental Plan 2013

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

2.1.1 Zoning of Land and Permissibility

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

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

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

2.1.2 Height of Buildings

A submission has been received raising concerns that insufficient detail has been provided to determine the height of the dwelling.

Clause 4.3 of the HLEP provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 8.5m. The proposed dwelling house would have a maximum height of 8.21m and complies with this provision.

In addressing the submission, to ensure the undertaking of a comprehensive assessment of the building height, Council's assessment requested the provision of a Roof Plan with roof RL's overlayed with the Survey Plan contours. The proponent subsequently submitted an amended Site Plan (Issue 7) addressing Council's request.

2.1.3 Heritage Conservation

A submission has been received raising concerns that the excessive bulk and scale of the proposed dwelling house would be unsympathetic to the HCA.

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

Council's heritage assessment requested amended plans to address concerns with the bulk and scale of the proposed dwelling in comparison to the approved dwelling on the front lot. With the information available to Council as part of the original suite of plans / documents, it was also considered that views of the site and proposed dwelling would be visible in the street from the western side of the site, due to the adjoining driveway, vegetation removal, and side boundary setbacks. To address Council's heritage concerns, amendments were requested to address the concerns as follows:

- Reduction in the height and scale of the dwelling so that it is not easily visible in the streetscape. It was suggested that this could be achieved by the avoidance of excessive fill and incorporating a split-level design to enable the dwelling to better relate to the slope of the site. Greater articulation and stepping of the second storey further to the rear to reduce the bulk/height of the southern elevation was also requested.
- Additional evergreen screen planting was requested to be provided on the southern and western boundaries of the property.
- The elevated clothesline was requested to be relocated or evergreen screen planting provided on the southwestern corner of the site.
- Details of the appearance of any proposed retaining walls and fencing on the southern and western boundaries were requested.
- In the instance that the amendments did not sufficiently reduce the visibility of the dwelling from the streetscape and surrounding areas, the materials and finishes were requested to be amended to clean faced brick in accordance with HDCP Part 9.3.1 and Table 9.3.6 (a) requirements.

In response, a letter prepared by Doug Sneddon Planning Pty Ltd sought to justify the heritage impacts of the dwelling, in addition to an amended Landscape Plan (Revision A).

Council's heritage assessment accepts the justification provided in the addendum letter and the amended Landscape Plan for the following reasons:

- Most of the dwelling would be screened from the streetscape by existing retained vegetation (western boundary), the proposed additional screen planting on the southwestern corner of the site, and the approved two storey dwelling on the street front allotment.
- The proposed addition of 4 additional *Pittosporum tenuifolium* evergreen screen plants on the southern and western boundaries would address the sightline concerns raised.

- The adjoining approved Seniors housing development to the west, comprises a substantial amount of render and as the proposed dwelling is setback, from the streetscape the render proposed on review is accepted in this circumstance.

Council's heritage assessment raises no concerns to the application as amended.

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.

The site experiences a fall of 5 metres to the south-eastern corner, representing an average gradient of 11%.

The development would require excavation of a maximum depth of 1m beneath the north-western corner of the proposed dwelling house and a maximum fill of 1.3m at the south-western corner of the dwelling. The proposed earthworks are a consequence of the natural contours of the land to provide for a level building platform and open space suitable for residential development.

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

Conditions have been recommended requiring that prior to fill material being imported to the site, a Waste Classification Certificate shall be obtained from a suitably qualified environmental consultant confirming the fill wholly consists of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997*.

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

2.2 Adopted State Environmental Planning Policies

On 1 March 2022, the following State Environmental Planning Policies (SEPPs) were gazetted.

- State Environmental Planning Policy (Primary Production) 2021
- State Environmental Planning Policy (Resources and Energy) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Industry and Employment) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Precincts - Eastern Harbour City) 2021

These SEPPs now form matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. However general savings provisions apply to development applications that have been made but not yet determined, on or before the commencement date.

As this development application was lodged on 21 December 2021, this development application is considered to have been made prior to the commencement date of the SEPPs. The existing legislation in force at time of lodgement of the development application, prevails to be extent of any inconsistency.

Notwithstanding, the approval of the development application would not adversely affect the objectives of the newly adopted SEPPs and is considered to be consistent with this policy.

2.3 State Environmental Planning Policy No. 55 Remediation of Land

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

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

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

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

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

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

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

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

The application has been assessed against the requirements of the Vegetation SEPP and it has been determined that the proposal would meet the objectives of the Vegetation SEPP. This matter is addressed further in Section 3.1.1 of this report.

2.6 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

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

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

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

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

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

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

2.8 Hornsby Development Control Plan 2013

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

HDCP – Part 3.1 Dwelling Houses			
Control	Proposal	Requirement	Complies
Site Area	1,038.8m ² (903.2m ² ex. ROW)	N/A	N/A
Dwelling House height	8.21m	8.5m	Yes
No. storeys	2 storeys	max. 2 + attic	Yes
Site Coverage	33.6%	40%	Yes
Floor Area	430m ²	430m ²	Yes
Outbuilding Area (Garage)	48.5m ²	100m ²	Yes
Setbacks			
- <i>Front - Dwelling (south)</i>	2.5m	900mm	Yes
- <i>Front – Garage (south)</i>	1.1m	900mm	Yes
- <i>Side (west)</i>			
<i>Ground Floor</i>	3m	900mm	Yes
<i>First Floor</i>	3m	1.5m	Yes
- <i>Side (east)</i>			
<i>Ground Floor</i>	11.76m	900mm	Yes
<i>First Floor</i>	19.75m	1.5m	Yes
- <i>Rear (north)</i>			
<i>Ground Floor</i>	4.8m	3m	Yes

<i>First Floor</i>	9.3m	8m	Yes
Landscaped Area (% of lot size)	47%	40%	Yes
Private Open Space			
- <i>minimum area</i>	>24m ²	24m ²	Yes
- <i>minimum dimension</i>	>3m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes

As detailed in the above table, the proposed development complies with the prescriptive requirements within Section 3.1 of the HDCP. A discussion on compliance with relevant desired outcomes and Sections 1 and 9 of the HDCP is provided below.

2.8.1 Transport and Parking

The subject site would benefit from recent improvements to the site servicing the approved subdivision, comprising the common vehicle turning area to the rear of the subject allotment and a passing bay provided adjacent to the Copeland Road frontage. Council's engineering assessment is satisfied that vehicles egressing the garage of the proposed dwelling house would be able to manoeuvre and egress from the site in a forward direction in accordance with Australian Standard AS2890.

The application proposes the provision of two car parking spaces within a semi-detached garage to the eastern side of the proposed dwelling house and complies with the HDCP with regard to on-site parking.

The proposal complies with the transport and parking provisions of the HDCP and is deemed acceptable in this regard.

2.8.2 Landscaping

The submitted Landscape Plan (Revision A) indicates the planting of planting of 4 large canopy trees including:

- 1x Rough Barked Apple trees with a mature height of 15m.
- 2x Coastal Banksia trees with a mature height of 12m.
- 1x Water Gum with a mature height of 7m.

A total of 105 groundcovers, trees and shrubs around the perimeter of the site.

The proposal meets the desired outcomes of the landscaping section of the HDCP.

2.8.3 Sunlight Access

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

The submitted Shadow Diagrams prepared by Brooks Projects Architects demonstrates that the overshadowing resulting from the proposed dwelling house would predominantly fall within:

- The frontage of the adjoining property to the west at No. 95-97 Copeland Road.

- The accessway and landscaped area within the eastern portion of the subject site.
- The principal private open space area (terrace) of the approved dwelling house on the front (Lot 11).

It is calculated by Council that the principal private space area of the approved dwelling house on the front lot (Lot 11) would receive 3 hours of unobstructed sunlight access between 9AM to 12PM on 22 June.

The application has demonstrated that on 22 June all adjoining properties would receive a minimum of 3 hours of unobstructed sunlight access between 9AM and 3PM.

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

2.8.4 Privacy

A submission has been received raising concerns that the windows to the western side of the proposed dwelling house would facilitate overlooking into the adjacent property at Nos. 95-97 Copeland Road. It is suggested that highlight windows be used on the western elevation of the proposed dwelling.

In addressing the submission, it is acknowledged that the first-floor level of the proposed dwelling house would be setback between 3m to 4.5m to the western side boundary. The proposed first floor level bedrooms to the western elevation would be serviced by full sized windows with sill heights less than 1.5m above finished floor level. The HDCP states that windows servicing elevated bedrooms would not require the implementation of privacy measures/ screens and accordingly no privacy concerns are raised to the proposed first floor bedrooms.

Notwithstanding, the west-facing window servicing the first-floor level sitting room (W27) would have a sill height of 1.3m above finished floor level and would facilitate overlooking into bedrooms and living room areas within the residential development at the adjoining property at Nos. 95-97 Copeland Road. In general, it is considered that living spaces such as sitting rooms experience greater intensity of use compared to bedrooms and therefore require additional consideration with regard to privacy impacts. To ensure that privacy to the adjoining property is maintained, a condition has been recommended in Schedule 1 requiring the provision of amended plans prior to the issue of the Construction Certificate demonstrating an increase in the sill height of the first-floor level sitting room window at the western elevation to be a minimum of 1.5m.

The proposal complies with the privacy requirements of the HDCP, subject to the imposition of the abovementioned conditions.

2.9 Section 7.12 Contributions Plans

Hornsby Shire Council Section 7.12 Contributions Plan 2019-2029 applies to the development as the estimated costs of works is greater than \$100,000.

Section 2.8 of the Contributions Plan provides exemptions to development contributions required by this Plan, including for subdivision development that has been the subject of a condition requiring monetary contributions under a previous development consent. It is noted that the subject site is an allotment arising from a land subdivision approved under DA/985/2020. A condition of consent under DA/985/2020 required monetary payment of a Section 7.11 Contribution and accordingly the subject development is exempt from the development contributions ordinarily required under the Section 7.12 Contributions Plan 2019-2029.

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

Submissions have been received raising tree and vegetation impact concerns, summarised as follows:

- The design of the development should be amended to allow for the retention of tree Nos. 39, 40 and 41.
- Tree No. 40 is listed as an unknown species in the Arborist Report.
- Loss of habitat for fauna.

The application has been supported by an Arboricultural Impact Assessment (AIA) prepared by Advanced Treescape Consulting dated 8 December 2021. Addendum letters have also been received by Advanced Treescape Consulting providing an identification of the species of tree No. 40 (dated 11 March 2022) and clarifying impacts to tree Nos. 39 and 41 (dated 27 January 2022).

The application proposes the removal of 1 tree to facilitate the construction of the dwelling house, identified as tree No. 40 (*Parrotiopsis jacquemontiana*).

Tree No. 40 achieves a height of 12m with a Tree Protection Zone (TPZ) of 12m. The submitted AIA has assessed the tree as having a ‘low’ significance rating and a short, safe and useful life expectancy (SULE) rating. Given that tree No. 40 is located to the westernmost portion of the site, Council’s tree assessment has taken into consideration whether the tree could be retained through the relocation of the building footprint in an eastward direction. As the tree has a TPZ of 12m, it is estimated that the dwelling in its current form would be required to be shifted approximately 10.5m to the east to facilitate the retention of tree No. 40 and would not be a feasible solution. Given that the proposal complies with the setback and floor area requirements of the HDCP, on balance it is determined that the retention of the proposed positioning of the dwelling is acceptable, and the removal of the ‘low’ value tree is deemed appropriate in this instance.

As discussed under Section 2.8.2 of this report, to compensate for tree removal, the submitted Landscape Plan (Revision A) indicates the planting of 4 large canopy trees and a variety of small trees/ shrubs to the perimeter of the site.

The application proposes the retention of all other trees on the subject site and adjoining sites, including tree Nos. 39 and 41, identified as follows:

- Tree No. 39 is identified within the Arboricultural Impact Assessment as a Jacaranda tree with a height of 14m, a TPZ of 3.6m and a ‘medium’ significance rating.
- Tree No. 41 is identified within the Arboricultural Impact Assessment as a Camphor Laurel tree with a height of 25m, a TPZ of 9.6m and a ‘low’ significance rating.

Council’s original tree assessment requested a re-design of the development to reduce impacts to tree Nos. 39 and 41. In response, Council received additional information in the form of an addendum letter from Advanced Treescape Consulting dated 27 January 2022 clarifying the impacts to tree Nos. 39 and 41 (dated 27 January 2022). It is noted that the applicant has not provided amended plans to address Council’s re-design request. The addendum letter is summarised as follows:

- The addendum letter clarifies that the entire TPZ of tree No. 39 is not impacted by the proposed development.
- The addendum letter clarifies that half of the TPZ of tree No. 40 would be located to the south of the proposed dwelling. If this section of residence is constructed on piers and beam with a suspended slab, there would be an acceptable impact on this tree and will reduce the intrusion in TPZ to around 12% from 25% as originally calculated in the Arborist Report.

Council's tree assessment agrees with the addendum letter and concurs that only tree No. 40 would be removed to facilitate the proposed development.

In addressing the submission, application proposes to replace one tree 12m tall tree with 4 trees capable of achieving mature heights between 7m to 15m. It is acknowledged that a total of 105 groundcovers, trees and shrubs are proposed to be planted in accordance with the submitted Landscape Plan. It is considered that the proposal would be of a positive outcome with regard to landscaping and fauna habitat on the site.

The proposal is deemed acceptable with regard to the tree and vegetation preservation measures of the HDCP.

3.1.2 Stormwater Management

The application proposes to drain the stormwater collected by the proposed development to the approved inter-allotment stormwater drainage system beneath the recently constructed accessway to Council's drainage system along Copeland Road.

Council's stormwater management assessment raises no concerns to the proposed method of stormwater disposal, subject to recommended conditions in Schedule 1.

3.2 Built Environment

3.2.1 Built Form

The proposed built form is consistent with the dwellings on adjoining properties in terms of height design and materials

3.2.2 Traffic

At the time of subdivision, the traffic generation from this additional lot was considered and deemed acceptable and within the capacity of the road network. The proposal is for a single dwelling only and does not intensify the traffic generation from that previously assessed under DA/985/2020.

3.3 Social Impacts

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

3.4 Economic Impacts

The proposal would 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 Deferred Commencement

Given that the allotment subject to this application is yet to be registered with NSW Land Registry Services (LRS), a deferred commencement condition has been recommended in Schedule 1 indicating that the consent does not operate until evidence that a registered plan of subdivision from the LRS creating the proposed lot is submitted to Council.

4. SITE SUITABILITY

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

The subject site is not identified as bushfire prone or flood prone land and is not burdened by any easements or restrictions. The proposal has demonstrated the ability to avoid the removal significant vegetation and provides a dwelling design that is appropriate for the locality and heritage conservation area. The 11% gradient of the site is suitable for residential development and provides ample amenity to adjacent properties.

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

5. PUBLIC PARTICIPATION



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

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 23 December 2021 and 24 January 2022 in accordance with the Hornsby Community Engagement Plan. During this period, Council received 11 submissions. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

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

Eleven submissions have been received objecting to the development, generally on the following grounds:

- The design of the development should be amended to allow for the retention of tree Nos. 39, 40 and 41.
- Tree No. 40 is listed as an unknown species in the Arborist Report.
- Glare from proposed solar panels would disturb residents at Nos. 95-97 Copeland Road. It is suggested that non-reflective solar panels be installed.
- The excessive bulk and scale of the proposed dwelling house is unsympathetic to the HCA.
- The adjacent property at Nos. 95-97 Copeland Road would be able to overlook the western side of the proposed dwelling house. It is suggested that highlight windows be used on the western elevation of the proposed dwelling.
- Insufficient detail has been provided to determine the height of the dwelling and the positioning of A/C units and exhaust outlets.
- Loss of fauna habitat.
- The proximity of the dwelling house to the western side boundary.

- The recent dumping of wood chips has increased the natural ground level and may increase the eventual height of the building.

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

5.1.1 Glare From Solar Panels

A submission has been received raising concerns that glare from proposed solar panels would disturb residents at Nos. 95-97 Copeland Road. It is suggested that non-reflective solar panels be installed.

In addressing the submission, it is noted that solar panels are indicated on the western (side) and northern (rear) portions of the roof. Section 2.41(4) of State Environmental Planning Policy (Transport and Infrastructure) 2021 provides that roof mounted solar panels constitute exempt development in heritage conservation areas when not visible from the adjoining road. As discussed under Section 2.1.3 of this report, the development would not be visible from Copeland Road and the solar panels would be capable of meeting the exempt provisions of the SEPP.

Given that the solar panels are exempt development, the inclusion of the solar panels on the submitted plans are indicative only and are not subject to this application.

5.1.2 Western Setback

A submission has been received raising concerns that the proximity of the dwelling house to the western side boundary is insufficient.

In addressing this submission, it is noted that the HDCP provides that the minimum side boundary setback is to be 900mm. The proposed dwelling house would be setback between 3m to 4m from the western side boundary and complies with the HDCP in this regard. The proposed dwelling house would be screened by existing and proposed vegetation along the western boundary and it is considered that the proposed development adequately setback from the adjoining residential development.

5.1.3 Recent Earthworks Resulting in Increase in Building Height

A submission has been received raising concerns that the wood chips have recently been placed onto the site and have increased the natural ground level. Concerns are raised that this may increase the eventual height of the building.

In addressing this submission, Council's Lidar contour maps have confirmed that the site contours have not been altered between 2010 to 2019. Council's assessment of the height of the proposed dwelling house has been formulated using the existing site contours based on a Survey Plan prepared by Stephen Thorne & Associates dated 11 April 2014. Accordingly, the recent earthworks on the site would not result in any increase in the eventual height of the building.

5.1.4 Positioning of A/C Units & Exhaust Outlets

A submission has been received raising concerns that insufficient detail has been provided on the plans to determine the location of air conditioning units and exhaust outlets.

In addressing this submission, the positioning of air conditioning units and exhaust outlets are not matters for consideration in Council's assessment of the application under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. Notwithstanding, to ensure that noise and emissions emanating from any air conditioning units and exhaust outlets are in keeping with expectations for residential areas, conditions have been recommended in Schedule 1 in this regard.

The conditions include that the level of total continuous noise emanating from operation of air conditioning units (measured for at least 15 minutes) must not exceed the background level by more than 5dB(A) when measured at all property boundaries and that any kitchen exhaust system be designed and installed to effectively prevent air pollution in accordance with the *Protection of the Environment Operations Act 1997*.

5.2 Public Agencies

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

6. THE PUBLIC INTEREST

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

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

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

CONCLUSION

The application proposes construction of a two-storey dwelling house on Lot 121 approved under DA/985/2020 (Torrens title subdivision of two lots into four).

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

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

The reasons for this decision are:

- The proposed development complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013.
- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, vegetation, overshadowing, heritage, solar access, amenity or privacy.

Note: At the time of the completion of this planning report, no persons have made a Political Donations Disclosure Statement pursuant to Section 10.4 of the Environmental Planning and Assessment Act 1979 in respect of the subject planning application.

RESPONSIBLE OFFICER

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

CASSANDRA WILLIAMS

Major Development Manager - Development
Assessments
Planning and Compliance Division

ROD PICKLES

Manager - Development Assessments
Planning and Compliance Division

Attachments:

1. Locality Plan
2. Architectural Plans
3. Landscape Plan
4. Survey Plan
5. Tree Location Plan

File Reference: DA/1379/2021

Document Number: D08410975

SCHEDULE 1

1. Deferred Commencement

- a) Pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979*, this consent does not operate until a registered plan of subdivision from the NSW Land Registry Services (NSW LRS) creating the proposed lot is submitted to Council.
- b) Such information must be submitted within **36 months** of the date of this notice.

Upon Council's written satisfaction of the above information, the following conditions of development consent apply:

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.

2. Approved Plans and Supporting Documentation

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

Approved Plans

Plan No.	Plan Title	Drawn by	Dated	Council Reference
03, Rev 07	Site Plan	Fyffe Design	10.3.22	
04, Rev 07	Ground Floor Plan	Fyffe Design	10.3.22	
06, Rev 07	First Floor Plan	Fyffe Design	10.3.22	
08, Rev 07	Roof Plan	Fyffe Design	10.3.22	
09, Rev 07	East, West & North Elevations	Fyffe Design	10.3.22	
10, Rev 07	South Elevation & Sections	Fyffe Design	10.3.22	
12, Rev 07	External Finishes	Fyffe Design	10.3.22	
A3, Rev A	Landscape Plan	Aspect Designs	15.3.22	

Supporting Documents

Document Title	Prepared by	Dated	Council Reference
Arboricultural Impact Assessment	Advanced Treescape Consulting	8.12.21	D08320953

<i>Document Title</i>	<i>Prepared by</i>	<i>Dated</i>	<i>Council Reference</i>
BASIX Certificate No. 1251913S	Building & Energy Consultants Australia	25.10.21	D08320949
Waste Management Plan	Doug Sneddon Planning P/L	1.1.21	D08320939

3. Removal of Existing Trees

- a) This development consent permits the removal of one tree numbered T40 as identified in the Arboricultural Impact Assessment prepared by Advanced Treescape Consulting dated 8/12/2021 TRIM D08320953.
- b) No consent is granted for the removal of the trees numbered T39 and T41 as these trees contribute to the established landscape amenity of the area/streetscape.

4. Amendment of Plans

- a) To comply with Councils requirement in terms of privacy, the approved plans are to be amended as follows:
 - i) The sill height of the window to the first-floor level sitting room on the western elevation is to be increased to a minimum height of 1.5 metres above the finished floor level.
- b) These amended plans must be submitted with the application for the Construction Certificate.

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 not be inconsistent with the Development Consent plans.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

6. Appointment of a Project Arborist

- a) A project arborist with AQF Level 5 qualifications must be appointed.
- b) Details of the appointed project arborist must be submitted to Council and the PCA for registration with the application for the construction 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. Contract of Insurance (Residential Building Work)

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

9. Notification of Home Building Act 1989 Requirements

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

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

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

10. 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 inTM through www.sydneywater.com.au under the Building and Development tab.

11. 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 to an existing inter-allotment drainage system.

12. On Site Stormwater Detention

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

- a) Have a capacity of not less than 5 cubic metres, and a maximum discharge (when full) of 8 litres per second.
- b) Have a surcharge/inspection grate located directly above the outlet.
- c) Discharge from the detention system must be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice

bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.

- d) Be in accordance with the stormwater design plans prepared by C & M Consulting Engineers dated Jan 2022.
- e) Not be constructed in a location that would impact upon the visual or recreational amenity of residents.

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 AS2890.1, AS3727 and the following requirements:

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

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS
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14. 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.

15. 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.

16. 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*.

17. 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.

18. 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.

19. Installation of Tree Protection Measures

- a) Trees to be retained and numbered T39 and T41 as identified on the Tree Location Plan prepared by must have tree protection measures for the ground, trunk and canopy installed by the project arborist as follows:
 - i) For the duration of demolition works, in accordance with the Tree Protection Plan in the Arboricultural Impact Assessment, prepared by Advanced Treescape Consulting dated 8/12/2021.
 - ii) For the duration of construction works, in accordance with Tree Protection Plan in the Arboricultural Impact Assessment, prepared by Advanced Treescape Consulting dated 8/12/2021.
- b) Tree protection fencing for the trees to be retained must be installed by the engaged AQF 5 project arborist and consist of 1.8m high temporary fencing panels installed in accordance with Australian Standard AS4687-2007 Temporary fencing and hoardings.

- c) 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.
- d) The circumference of the trunk(s) must be wrapped in hessian material to provide cushioning for the installation of timber planks.
- e) Timber planks (50 x100mm) must be spaced at 100mm intervals and must be attached using adjustable ratchet straps.
- f) All tree protection zones must have a layer of wood-chip mulch at a depth of between 150mm and 300mm.
- g) Where wood-chip mulch is permitted by Council instead of tree protection fencing within the tree protection zones, the wood-chip must be covered with a layer of geotextile fabric and rumble boards.

REQUIREMENTS DURING CONSTRUCTION

20. 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.

21. 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*.

22. 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.

23. 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.

24. Landfill

- a) Prior to fill material being imported to the site, a Waste Classification Certificate shall be obtained from a suitably qualified environmental consultant confirming the fill wholly consists of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material approved under the NSW Environment Protection Authority's Resource Recovery Orders and Exemptions.

- b) The required Waste Classification Certificate must be obtained by the Principal Contractor prior to fill being imported to the site and made available to Council at its request.

25. Maintenance of Public Footpaths

Public footpaths must be maintained for the duration of works to ensure they are free of trip hazards, displacements, breaks or debris to enable pedestrians to travel along the footpath safely.

26. 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.

27. Survey Report

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

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

28. Waste Management

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

29. 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

30. Maintaining the Health of Trees Approved for Retention

The appointed project arborist must monitor and record any and all necessary actions required to maintain tree health and condition for trees retained on the approved plans.

31. Maintaining Tree Protection Measures

Tree Protection Measures must be maintained by the project arborist in accordance with this consent for the duration of works.

32. Approved Works Within Tree Protection Zone Incursions

- a) Where tree root pruning is required for the installation of piers, driveway or underground services, the pruning must be overseen by the AQF 5 project arborist and must be undertaken as follows:
 - i) Using sharp secateurs, pruners, handsaws or chainsaws with the final cut being clean.
 - ii) The maximum diameter of roots permitted to be cut is 50mm.
- b) Where the building footprint enters or transects the Tree Protection Zones of trees to be retained sensitive construction techniques in the form of screw pilings or piers, cantilevered or suspended slab design must be employed to create a 100mm clearance above existing soil grade.
- c) Approved excavations within the Tree Protection Zone of trees to be retained not associated with installation of services must be undertaken as follows:
 - i) Excavations for the construction and/or installation of the house/deck/driveway/piers in the Tree Protection Zone of trees to be retained on the approved plans must be supervised by the project arborist for the first 1.000 meter undertaken manually to locate roots and allow for pruning.
- d) To minimise impacts within the Tree Protection Zone (TPZ) of trees retained on the approved plans, the installation of services must be undertaken as follows:
 - i) The AQF 5 project arborist must be present to oversee the installation of any underground services which enter or transect the tree protection.
 - ii) The installation of any underground services which either enter or transect the designated TPZ must be undertaken manually.
 - iii) For manually excavated trenches the AQF 5 project arborist must designate roots to be retained. Manual excavation may include the use of pneumatic and hydraulic tools.
- e) Where scaffolding is required, ground protection must be installed beneath the scaffolding in the following order:
 - i) Installation of a 100mm deep layer of woodchip.
 - ii) Installation of geotextile fabric ground covering.
 - iii) Installation of scaffold boarding above the woodchip and geotextile fabric.

33. Building Materials and Site Waste

The stockpiling of building materials, the parking of vehicles or plant, the disposal of cement slurry, wastewater or other contaminants must be located outside the tree protection zones as prescribed in the conditions of this consent of any tree to be retained.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

34. Fulfilment of BASIX Commitments

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

35. 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.

36. Retaining Walls

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

37. Final Tree Certification

- a) The AQF 5 Project arborist must submit to the Principal Certifying Authority a certificate that includes the following:
- b) All tree protection requirements complied with the as approved tree protection plan for the duration of demolition and/or construction works.
- c) All completed works relating to tree protection and maintenance have been carried out in compliance with the conditions of consent and approved plans.
- d) Dates, times and reasons for all site attendance.
- e) All works undertaken to maintain the health of retained trees.
- f) Details of tree protection zone maintenance for the duration of works.

Note: Copies of monitoring documentation may be requested throughout DA process.

38. Completion of Landscaping

A certificate must be submitted to the PCA by a practicing landscape architect, horticulturalist or person with similar qualifications and experience certifying that all required landscaping works have been satisfactorily completed in accordance with the approved landscape plans.

Note: Advice on suitable species for landscaping can be obtained from Council's planting guide 'Indigenous Plants for the Bushland Shire', available at www.hornsby.nsw.gov.au.

39. Creation of Easements

The following easements are to be created on the title of the property in accordance with the *Conveyancing Act 1919*:

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

with pipe sizes and grades. Any variations to the approved plans must be shown in red on the “works-as-executed” plan and supported by calculations;

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

40. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for the completed on-site detention system.

41. 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.

- 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 (Biodiversity and Conservation) 2021* 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).

Covenants

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

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

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