

CONSULTANT ASSESSMENT REPORT

DA No:	DA/431/2022 (Lodged on 2 May 2022)
Description:	Demolition of structures and Torrens title subdivision of 2 lots into 6 lots
Property:	Lots O & N DP 28986, Nos. 127 & 127A Boundary Road, North Epping
Applicant:	Group Development Services Pty Ltd
Owner:	Mrs Katrina Louise Collins
Estimated Value:	\$240,000
Ward:	C Ward

- The application involves the demolition of structures and Torrens title subdivision of two lots into six lots.
- The proposed development was amended on 18 October 2022 primarily to increase the proposed road width and provide a Clause 4.6 Variation request to the proposed minimum lot sizes.
- The proposal complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013, with the exception of minimum lot size.
- A total of twelve (12) submissions, including a letter signed by nine (9) parties, have been received in respect of the original application. The re-notification of the amended application received a total of three (3) submissions, plus a petition signed by landowners of nine (9) properties in Walker Place and Boundary Road.
- As the proposal involves the dedication of land to Council for the Walker Place road widening, an independent assessment of the application has been undertaken.
- 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.

BACKGROUND

The subdivision that originally created Walker Place was approved in 1974. At this time the road, kerb and footpath were only completed for the western side of Walker Place. It was envisaged at this time that as development occurs along the eastern side of Walker Place, individual property owners would be required to construct the remaining part of the roadway, kerb and gutter relevant to their property. However, no masterplan provisions or caveats on land titles are in place to enforce compulsory dedication of land for road construction.

On 25 September 2012, a two lot subdivision was approved at Lot P DP 28986, No. 125 Boundary Road North Epping, being land immediately adjoining the site to the north.

On 2 May 2022 the subject application was lodged.

On 14 June 2022, a four lot subdivision (DA/514/2022) was lodged on No. 263 Malton Road (3 Walker Place), North Epping, being land immediately adjoining the site to the south. This application has not yet been determined.

On 22 June 2022, a request for information letter was sent by Council with respect to the proposed road width, drainage and tree preservation.

On 18 October 2022, amended plans and information was submitted in response to Council's request for information.

SITE

The site comprises two lots, being Lots O & N DP 28986, with a total area of 3,698m². The site is located on the eastern side of Walker Place, with an access handle to the north providing direct access to Boundary Road.

The site is a rectangular shaped allotment that contains a dwelling house with free standing garden shed, fencing, and scattered vegetation and grass.

The site is generally flat, with a slope towards the eastern boundary.

The site is not identified as bushfire prone land, nor flood prone. The site is not burdened by any easements or restrictions.

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

PROPOSAL

The application proposes:

- Demolition of structures;
- Torrens title subdivision of two lots into six lots, in two stages;
- Civil works including services to each site, widening of Walker Place and drainage of the proposed lots to Walker Place; and
- Removal of 19 trees.

The Torrens title subdivision is outlined below:

Stage 1:

- Proposed Lot 101 would have an area of 491.6m². Vehicle access to this lot would be from Walker Place.
- Proposed Lot 102 would have an area of 491.6m². Vehicle access to this lot would be from Walker Place.
- Proposed Residue Lot 1 would have an area of 1,966.4m², which will be re-subdivided as part of Stage 2. Vehicle access to this lot would be from Walker Place and includes the reduced width battle-axe handle.
- Civil works, including road widening and dedication to Council.

Stage 2:

- Re-subdivision of Residue Lot 1.
- Proposed Lot 201 would have an area of 491.6m². Vehicle access to this lot would be from Walker Place.
- Proposed Lot 202 would have an area of 491.6m². Vehicle access to this lot would be from Walker Place.
- Proposed Lot 203 would have an area of 491.6m². Vehicle access to this lot would be from Walker Place.
- Proposed Lot 204 would have an area of 491.6m². Vehicle access to this lot would be from Walker Place and includes the reduced width battle-axe handle.
- Civil works.

ASSESSMENT

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

1. STRATEGIC CONTEXT**1.1 Greater Sydney Region Plan - A Metropolis of Three Cities and North District Plan**

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

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

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

2. STATUTORY CONTROLS

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

2.1 Hornsby Local Environmental Plan 2013

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

2.1.1 Zoning of Land and Permissibility

Clause 2.6 of the HLEP permits the subdivision of land to which the instrument applies, but only with development consent. The proposed subdivision of the subject land is permissible with Council's consent.

The subject land is zoned R2 Low Density Residential under the HLEP. The objectives of the R2 zone are:

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

The proposed subdivision would facilitate the provision of housing to meet the needs of the community. It is considered that the proposal satisfies the zone objectives.

2.1.2 Minimum Lot Size & Clause 4.6 Exceptions to Development Standards

Clause 4.1 of the HLEP provides that the minimum size of any lot resulting from the subdivision of the subject site is 500m².

Proposed Lots 101, 102, 201, 202, 203 and 204 are below the minimum lot size requirement. Each proposed lot is 491.6m², which is 8.4m² below the minimum lot size requirement of 500m². This equates to a variation to the control of 1.7% per lot.

Clause 4.6 of HLEP allows the applicant to make a written request to vary the applicable development standard that is contravened. In this case, the proposed development does not comply with the minimum lot size as required by Clause 4.1(3) of Hornsby Local Environmental Plan 2013, being less than the minimum size shown on the Lot Size Map in relation to that land. The objective of Clause 4.6 is to provide an appropriate degree of flexibility in applying certain standards to particular development, and to achieve a better outcome for and from the development by allowing some flexibility.

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

As previously noted above, the proposal contravenes the prescribed development standard for minimum lot size as required by Clause 4.1(3) of Hornsby Local Environmental Plan 2013, being less than 500m² for Proposed Lots 101, 102, 201, 202, 203 and 204.

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard*

The applicant has submitted a written Clause 4.6 Variation Request to vary the applicable minimum lot size as required by Clause 4.1(3) of Hornsby Local Environmental Plan 2013, which outlines the variation, addresses the matters under Clause 4.6 and details how strict compliance is unreasonable or unnecessary in the circumstances of this case.

The Clause 4.6 Variation Request has been considered with respect to the "5 Part Test" for the assessment of a development standard variation established by the NSW Land and Environment Court in *Wehbe v Pittwater Council [2007] NSWLEC 827* and the principles outlined in *Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46* and *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90*. The decision of Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* provides guidance in respect of the operation of Clause 4.6 subject to the clarification by the NSW Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130* where the Court confirmed that properly construed, a consent authority has to be satisfied that an applicant's written request has demonstrated the matters required to be demonstrated by cl 4.6(3).

The variation is outlined below:

- Development Standard - Minimum lot size of 500m² as required by Clause 4.1(3) of Hornsby Local Environmental Plan 2013.
- Proposed - 491.6m² for Proposed Lots 101, 102, 201, 202, 203 and 204.
- Variation -1.7%.

Clause 4.1 states:

"4.1 Minimum subdivision lot size

- (1) *The objectives of this clause are as follows—*
- (a) *to provide for the subdivision of land at a density that is appropriate for the site constraints, development potential and infrastructure capacity of the land,*
 - (b) *to ensure that lots are of a sufficient size to accommodate development.*
- (2) *This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.*
- (3) *The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.*
- (3A) *If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size.*
- (4) *This clause does not apply in relation to the subdivision of any land—*
- (a) *by the registration of a strata plan or strata plan of subdivision under the Strata Schemes Development Act 2015, or*
 - (b) *by any kind of subdivision under the Community Land Development Act 2021."*

The Clause 4.6 Variation Request forms an Attachment to this Report and included the following justification on three grounds, as summarised/ extracted below:

“Ground 1 - The reduction in minimum lot size provides for safe and efficient access to the site

The subdivision application under DA/431/2022 initially proposed a 6 lot subdivision that was compliant with the minimum lot size requirements. However, discussions with Council after submission of the DA identified the road widening was not compliant with the requirements for a local street. It is noted at the time of the Pre-Lodgement meeting, Council did not advise of any concerns with the road width, hence the DA was submitted as per the Pre-Lodgement meeting advice. The road width has since been discussed in detail with Council and it has been agreed that the total road reserve width is to be increased to allow for a road pavement of 7.5m and a verge of 1.2m. Council has suggested that the increased road width would provide a safer and more adequate road corridor for both the proposed subdivision, and the existing residential lots along Walker Place, and would allow for more adequate street parking and tree planting. The proposed road widening would be within the public interest, as required under Clause 4.6(4)(a)(ii), as this land is proposed to be dedicated to Council.

Approval of this revised road pavement and revised plan of subdivision is in the public benefit as it will complete Walker Place resulting in an orderly development outcome.

Ground 2 - The reduction in the minimum lot size provides for the orderly and economic use and development of undersized allotments

As a result of the increased road width, the proposed lot depths have been impacted by 0.7m, slightly reducing the total lot area. The proposed variation is minor in nature and will not impact on the residential integrity of the development or existing neighbouring sites. The lots proposed to be created under DA/431/2022 will all maintain compliance with the HDCP 2013. Each lot is able to accommodate the minimum lot width requirement, 200m² building envelopes, minimum principal POS area and garage and parking areas as required under section 6.2 of the DCP, as shown in the submitted Plan of Constraints.

The proposed Development Application has also been amended to incorporate tree planting fronting each lot within the verge in compliance with Council's native and Indigenous plant communities.

Furthermore, each lot is capable of additional tree planting to the rear if required by Council. Approval of a subdivision of 6 residential lots, will support residential development within North Epping and is in line with the Hornsby Local Strategic Plan to encourage population growth. The subdivision better utilises the sites development potential with only minor deviance from the LEP and no increased environmental impact, and therefore, strict compliance with the minimum lot size requirement is unnecessary in this circumstance. Furthermore, the proposal remains in line with the objectives of the R2 Zoning, to provide for the housing needs of the community within a low-density residential environment, and the minimum lot size development standard outlined in section 2.

Ground 3 - Objects of EP&A Act

Approval of the minimum lot size variation does promote the objects of the EP& A Act, particularly:

- Approval would promote the orderly and economic use and development of land 1.3(c).
- Approval would promote good design and amenity of the built environment 1.3(g).

Despite the proposed variation, the development maintains consistency with the objectives of the minimum lot size requirements mentioned above given the proposed subdivision can provide additional land that is supported by infrastructure, including the existing and proposed road, and suitable serviceability as outlined in the DA this request is submitted with, and the proposed density is considered appropriate for the development given the lack of site constraints. Each lot can accommodate the minimum lot width requirement, 200m² building envelopes, minimum principal POS

area and garage and parking areas in accordance with section 6.2 of the Hornsby Development Control Plan 2013 (HDCP 2013), as shown in the submitted Plan of Subdivision and Plan of Constraints.”

It is concluded that the application has demonstrated that compliance with Clause 4.1 is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental grounds to justify contravening the development standard, for the following reasons:

- The reduced lot sizes are regular in shape and sufficient in size, width and depth to be capable of accommodating a building envelope, which allows for a future dwelling and associated private open space to be easily constructed on the proposed lot.
- Adverse environmental or amenity impacts are unlikely as a result of the non-compliance.
- The subdivision pattern in the locality is varied. There are examples in the immediate locality of lot sizes below the minimum lot size control, ranging from 363m² to 497m² in Bailey Crescent, Devon Street and Malton Road. The housing forms in the locality are varied and includes dwellings on various sized lots, including below the minimum requirement, through to multi-unit housing. Dwellings on a lot below the minimum lot size is not a new feature in the area and the proposed lot sizes and shape are consistent with the existing subdivision pattern in the area.
- The site is not constrained and is able to accommodate a building envelope at various locations on the site.
- Amenity impacts are limited due to the minor variation of 8.4m², which is not discernible when viewing the lots from the public domain or adjoining properties and does not limit development potential.
- The width of the lots (16m) exceeding the minimum requirement (12m), which allows for ample width and frontage for trees and landscaping and parking, as well as side setbacks.
- The proposal resolves current road safety issues with respect to an incomplete road and illegal parking and the departure of 8.4m² per lot will not create new road safety issues.
- The appearance of the area remains unaltered as the proposal is not a new form of housing or separate land use.
- The variation assists with satisfying the zone objectives by way of providing for the housing needs of the community within a low density residential environment.
- Strict compliance would not have an improved environmental outcome and would result in less housing stock.
- The variation assists with satisfying the objectives of Clause 4.1 by way of proposing sufficient sized residential lots which provide for a density that is appropriate for the site constraints, development potential and infrastructure capacity of the land.
- Orderly and economic development of the land is achieved despite the departure from the development standard.

Therefore, in this instance the development standard is considered to be unreasonable as the major matters requiring residential lots are still met in a thoughtful design. In this regard, it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

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

With respect to Clause 4.6(4)a), the applicant's written request as detailed above is considered satisfactory in addressing the matters required by subclause (3), particularly noting that the variation to the development standard is minor in nature.

The objectives of the development standard are stated above.

The key objectives of this clause are to ensure that lot sizes are compatible with the environmental capabilities of the land being subdivided including site constraints and infrastructure capacity; and to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.

It is considered that the intent of the control and the objective with respect to a minimum lot size is to ensure that residential sites are capable of accommodating built form in accordance with Hornsby DCP controls relating to landscaped areas, front, side and rear setbacks, building envelopes, stormwater management and parking. All of these controls work to limit the amount of development that can be achieved on a residential site, particularly with regard to building envelopes and number of dwellings. The proposed lots are unconstrained and capable of achieving the other controls stated in the Hornsby DCP to ensure that dwellings are designed with adequate residential amenity, for example, requiring that each dwelling have two car spaces and private open space.

The Applicant's Request indicates that the subdivision will result in a density reflecting the existing subdivision pattern and infrastructure capacity of the locality and that the proposed lots are of sufficient size to accommodate dwelling houses compliant with the Hornsby DCP controls, satisfying the objectives of the control. The Request also demonstrates the variation is justified with sufficient environmental planning grounds, specifically relating to the requirement of road widening for Walker Place, resulting in affected lot sizes. Finally, the request outlines that the proposed development is in the public interest as it will enable the remaining construction of Walker Place, completed to current road safety standards, resolving the current public issues whereby Walker Place does not provide adequate area for safe ingress and egress as well as suitable street parking locations.

Therefore, in consideration of the above it is concluded that the proposal is in the public interest, subject to conditions, as it meets the objectives of the minimum lot size for the R2 zone. An appropriate degree of flexibility can be applied in this case.

With respect to Clause 4.6(4)b), a standard delegation was issued by the Director-General in regard to obtaining concurrence and outlined that development that contravenes a standard by less than 10% could be determined under the normal delegations of Council, whilst contraventions more than 10% would be determined by the Local Planning Panel. In this case, the proposed non-compliance is equal to 1.7% and therefore the application could be determined under delegation, however in this instance due to the number of unique submissions, the request will be determined by the Local Planning Panel.

As such, the Clause 4.6 variation to Clause 4.1(3) of Hornsby Local Environmental Plan 2013 is supported.

2.1.3 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 objectives of this clause are to ensure that required earthworks will not have a detrimental impact on environmental functions and processes. Given the land is generally flat, minor earthworks only are likely to be required for the proposed development however it is considered that the proposed excavation would not adversely impact on environmental functions and processes, subject to standard conditions of consent being applied in regard to sediment control.

Council's assessment of the proposed works and excavation concludes that minor cut and fill works will not impact upon surrounding properties, including drainage.

2.2 State Environmental Planning Policy (Resilience and Hazards) 2021

The application has been assessed against the requirements of Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021.

2.2.1 Chapter 4 Remediation of Land

Chapter 4 of SEPP (Resilience and Hazards) 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.

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

A search of Council's records and aerial photos indicates the site has a history of residential use. It is therefore unlikely that the site has experienced any significant contamination and further assessment under SEPP (Resilience and Hazards) is not necessary.

2.3 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The application has been assessed against the requirements of Chapters 2 and 10 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

2.3.1 Chapter 2 Vegetation in non-rural areas

Chapter 2 of this Policy seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

Part 2.3 of the Policy 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.

Section 2.5.4 of this report provides an assessment in accordance with Part 1B.6.1 of the HDCP.

2.3.2 Chapter 10 Sydney Harbour Catchment

The site is located within the catchment of Sydney Harbour. The aim of this chapter is to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained. This chapter provides general planning considerations and strategies to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained.

The policy addresses matters related to biodiversity, ecology and environment protection; public access to, and use of, foreshores and waterways; maintenance of a working harbour; interrelationship of waterway and foreshore uses; foreshore and waterways scenic quality; maintenance, protection and enhancement of views and boat storage facilities.

Subject to the implementation 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 and would comply with the requirements of chapter 10 of the Biodiversity and Conservation SEPP.

2.4 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.

2.5 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 6 Subdivision			
Control	Proposal	Requirement	Complies
Site Area	3,719m ²	N/A	N/A
Lot Sizes – Stage 1			
- Lot 101	491.6m ²	500m ²	No – refer to Clause 4.6 Variation
- Lot 102	491.6m ²		
- Residue	1,966.4m ²		
Lot Sizes – Stage 2			
- Lot 201	491.6m ²		
- Lot 202	491.6m ²		

- Lot 203	491.6m ²		
- Lot 204	491.6m ²		
Lot Widths			
- Lot 101	16.38m		
- Lot 102	16.40m		
- Lot 201	16.40m	12m	Yes
- Lot 202	16.39m		
- Lot 203	16.39m		
- Lot 204	16.36m		
Lot 101			
Building Envelope	200m ²	200m ²	Yes
Setbacks			
- Front (Walker Place)	6m	6m	Yes
- Side (north)	0.9m	0.9m	Yes
- Side (south)	0.9m	0.9m	Yes
- Rear (east)	5m	5m	Yes
Landscaped Area	>20%	20%	Yes
Private Open Space			
- minimum area	>24m ²	24m ²	Yes
- minimum dimension	>3m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes
Lot 102			
Building Envelope	200m ²	200m ²	Yes
Setbacks			
- Front (Walker Place)	6m	6m	Yes
- Side (north)	0.9m	0.9m	Yes
- Side (south)	0.9m	0.9m	Yes
- Rear (east)	5m	5m	Yes
Landscaped Area	>20%	20%	Yes
Private Open Space			
- minimum area	>24m ²	24m ²	Yes

- <i>minimum dimension</i>	>3m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes
Lot 201			
Building Envelope	200m ²	200m ²	Yes
Setbacks			
- <i>Front (Walker Place)</i>	6m	6m	Yes
- <i>Side (north)</i>	0.9m	0.9m	Yes
- <i>Side (south)</i>	0.9m	0.9m	Yes
- <i>Rear (east)</i>	5m	5m	Yes
Landscaped Area	>20%	20%	Yes
Private Open Space			
- <i>minimum area</i>	>24m ²	24m ²	Yes
- <i>minimum dimension</i>	>3m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes
Lot 202			
Building Envelope	200m ²	200m ²	Yes
Setbacks			
- <i>Front (Walker Place)</i>	6m	6m	Yes
- <i>Side (north)</i>	0.9m	0.9m	Yes
- <i>Side (south)</i>	0.9m	0.9m	Yes
- <i>Rear (east)</i>	5m	5m	Yes
Landscaped Area	>20%	20%	Yes
Private Open Space			
- <i>minimum area</i>	>24m ²	24m ²	Yes
- <i>minimum dimension</i>	>3m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes
Lot 203			

Building Envelope	200m ²	200m ²	Yes
Setbacks			
- <i>Front (Walker Place)</i>	6m	6m	Yes
- <i>Side (north)</i>	0.9m	0.9m	Yes
- <i>Side (south)</i>	0.9m	0.9m	Yes
- <i>Rear (east)</i>	5m	5m	Yes
Landscaped Area	>20%	20%	Yes
Private Open Space			
- <i>minimum area</i>	>24m ²	24m ²	Yes
- <i>minimum dimension</i>	>3m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes
Lot 204			
Building Envelope	200m ²	200m ²	Yes
Setbacks			
- <i>Front (Walker Place)</i>	6m	6m	Yes
- <i>Side (north)</i>	0.9m	0.9m	Yes
- <i>Side (south)</i>	0.9m	0.9m	Yes
- <i>Rear (east)</i>	5m	5m	Yes
Landscaped Area	>20%	20%	Yes
Private Open Space			
- <i>minimum area</i>	>24m ²	24m ²	Yes
- <i>minimum dimension</i>	>3m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes

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

2.5.1 Site Requirements

The proposed subdivision would result in the proposed lots having a lot size which is marginally below the minimum subdivision lot size requirements of the HDCP and HLEP. Refer to Section 2.1.2 regarding the Clause 4.6 Variation Request to the minimum lot size under HLEP. Notwithstanding this, the proposed subdivision design provides for regular shaped and wide lots and demonstrates compliance with the relevant HDCP controls including site coverage, landscaping, open space and car parking.

The desired outcome of Part 6.1.1(a) of the HDCP promotes “*subdivision design that provides usable allotments that relate to site conditions*”. The proposed lots are regular in shape and free of obstructions or natural features which will impact adversely upon the future use of the land.

2.5.2 Setbacks

HDCP requires a front setback from the building envelope on each lot to be a minimum of 6m, however also states “*on local roads, where an existing setback of 7.6m or greater exists, it may be necessary to conform to this setback to maintain the streetscape character*”. On Walker Place, there is a variety of front setbacks, with some exceeding 7.6m. For the purposes of the building envelope, a 6m setback has been adopted, noting that the required building envelope allows for ample room available for the future dwelling beyond the indicated envelope.

This allows for flexibility in the dwelling design and likely increase in the front setback. As this application is for subdivision only, the Constraints Plan indicates that there is the opportunity to increase setbacks and still achieve the necessary private open space, which would be assessed in detail as to the time of an application for the dwelling. The building envelope on the plans is indicative only and does not form a restriction on the land, to allow for flexibility in the dwelling design and ability to increase front setbacks.

2.5.3 Open Space & Landscaping

In accordance with the requirements of HDCP, the proposed subdivision a principal private open space area of 24m² for each lot. This area is to be generally level, with a minimum width of 3 metres, sited adjacent to the building envelope within the rear setback.

2.5.4 Tree Preservation

The proposal includes the removal of 27 trees, however 7 trees (Trees 7a, 7b, 7c, 7d, 7e, 11d and 18) are exempt from requiring consent. As such, removal is sought under this application for 19 trees (Trees 1, 2, 3, 4, 5, 6, 8, 9, 10, 11a, 11b, 11c, 12, 13, 14, 15, 28, 31 and 32), as indicated on the Plans and is supported by an Arboricultural Assessment which recommends removal of the trees and tree protection zones to protect trees being retained, primarily along the eastern boundary.

The Arboricultural Assessment recommends nineteen (19) replacement trees, which will be native species and the new location likely within the front setback is considered to be a better planning outcome.

Fourteen (14) trees require tree protection fencing around the TPZ, in accordance with the Tree Protection Plan.

Council’s Tree Management Team reviewed the proposal and raised concerns regarding:

- The proposed tree removal, given this proposal is only for subdivision with indicative footprints and no Development Application for construction on those indicative footprints.

- The proposed replacement plantings do not adequately compensate for the loss of canopy. Future applications for dwellings on the site with the indicative footprints suggested would not have the space for any useful replanting. Council's Tree Management Team recommends that the number of proposed lots in the subdivision be reduced to 4 lots.

Having regard to the concerns raised by Council's Tree Management Team, there is a balance that is necessary to be achieved between tree loss and road widening in order to achieve a completed Walker Place. There is unavoidable tree loss adjacent to and within the battle-axe handle to accommodate the road widening, which has a public benefit which justifies the removal of these trees and complete the road after many years in its current unfinished state. However, the retention of the battle-axe handle, allows for opportunity for new appropriate replacement planting to occur to replace trees being removed in this location. An appropriate condition of consent has been recommended regarding replacement planting.

With respect to the concerns raised regarding the other key area of tree removal in Proposed Lot 204 where Trees 13, 14, 15 and 32 will be removed, a good planning outcome has been achieved which indicates a location of a future building envelope whilst protecting Trees 16, 17, 19 and 20 along the rear boundary within Proposed Lot 204 with required tree protection fencing around the TPZ. Further, Trees 13, 14, 15 and 32 are likely to be impacted by demolition of the existing dwelling house and a reduction in proposed lot numbers would not protect these trees or achieve greater tree retention as it is likely these trees would still be impacted by the demolition.

The proposed development retains vegetation primarily along the eastern boundary, which will be the rear of the lots. Replacement planting is proposed by way of two trees in the front setback of each proposed lot and in the rear of some lots. Having regard to the proposed replacement planting, a condition of consent has been recommended which requires the proposed replacement planting at the front of each lot to occur within the front setback of the individual lots, as well as proposed along the eastern boundary and additional planting in the handle.

Subject to conditions, the proposal meets the requirements of Part 1B.6.1 Tree Preservation under the HDCP and is considered acceptable. Additional conditions have been recommended regarding replacement planting.

2.5.5 Stormwater Management

The amended plans propose satisfactory stormwater arrangements for drainage of the lots, including individual stormwater detention basins at the front of the lots and drainage to the street and new pipes in Walker Place, connecting into the existing system in Boundary Road. An area along the rear, eastern boundary of the lots is identified as bypassing detention and an inlet pit provided at the rear of each lot and has been reviewed by Council's Engineer and deemed satisfactory.

2.5.6 Traffic, Vehicle Access & Parking

During the assessment of the subject and adjoining application (DA/514/2022), Council originally requested that the road be increased to the standard of a local road. The applicant's traffic engineer for the subject application provided commentary which supported a lower standard of road. Whilst Council's Engineers do not support the Access Road definition as discussed in the supporting traffic report, a narrower verge on the development side is supported provided the Local Road carriageway width of 7.5 metres is achieved.

The submitted commentary, whilst not agreed with regarding classification, provides information regarding existing and future conditions in Walker Place. A copy forms an attachment to both assessment reports for completeness.

As such, the two applications have been amended to be consistent with respect to road width and Walker Place is proposed as follows:

- Widening of road reserve, consisting of the existing 3.6-metre verge on the north-western side, minimum 7.5-metre roadway pavement/ carriageway, and a 1.2-metre verge on the south-eastern side.
- The proposed roadway will allow for two-way passing of vehicles and the provision of on-street, or 'carriageway', car parking, and be designed in accordance with the Council Specifications.
- Widening at the intersection of Walker Place and Boundary Road would be designed to maintain access for vehicles up to Council's domestic waste collection vehicle.
- Completion of the cul-de-sac under DA/514/2022.

The commentary has been reviewed by Council's Engineers and the reduced verge on the development side is supported. Accordingly, the proposed roadway (Walker Place) has been amended on both applications and the subject proposal is consistent with the adjoining proposed subdivision. It was also recommended by Council's Engineer that "No Parking" restrictions be posted along the eastern side of the road (development side) subject to the Local Traffic Committee agreement, and a footpath be provided along the western side of Walker Place and appropriate conditions have been recommended.

The DCP requires sufficient and convenient parking for residents with vehicular access that is simple, safe and direct, and requires car parking for dwelling houses should be provided behind the front building line. In this instance, the proposed building envelopes indicate safe and direct access off Walker Place. The DCP requires 2 spaces for the dwelling house, and 2 spaces can be accommodated within the building envelope for a future dwelling.

The site is currently served by a driveway from both Boundary Road and Walker Place. Vehicular access to lots would be achieved via Walker Place. No objections are raised to the proposed vehicle access arrangements and an appropriate condition of consent is recommended that the reduced battle-axe handle to Proposed Residue Lot 1 and Lot 204 not be utilised for vehicular access.

2.6 Section 7.11 Contributions Plan

Hornsby Shire Council Section 7.11 Contributions Plan 2020-2030 applies to the subdivision as it would result in six residential lots in lieu of the two existing lots. Accordingly, the requirement for a monetary Section 7.11 contribution is recommended as a condition of consent.

3. ENVIRONMENTAL IMPACTS

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

3.1 Natural Environment

3.1.1 Tree and Vegetation Preservation

Council's assessment regarding the impacts to trees arising from the proposal is provided in Section 2.5.4 of this report.

3.1.2 Stormwater Management

Council's assessment regarding stormwater management arising from the proposal is provided in Section 2.5.5 of this report.

3.2 Built Environment

3.2.1 Built Form

The indicative building envelopes illustrated on the submitted Plan demonstrates that future dwellings on the proposed lots can comply with the relevant HDCP controls for built form.

3.2.2 Traffic

As established in Table 2.5 of this report, the proposal complies with the HDCP requirement for the provision of two car parking spaces behind the building line.

New vehicle crossings would be proposed along Walker Place to serve the proposed lots.

Council's assessment regarding traffic management arising from the proposal is provided in Section 2.5.6 of this report.

The proposal meets the provisions of the HDCP with respect to transport and parking.

3.3 Social Impacts

The subdivision would facilitate the improvement of housing choice in the locality by providing an opportunity for residential redevelopment. 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 by introducing future residential development to the locality and an increase in demand for local services.

4. SITE SUITABILITY

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

The subject site has not been identified as bushfire prone or flood prone land. 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 or the regulations”.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 5 May 2022 to 31 May 2022 in accordance with Community Engagement Plan. During this period, Council received twelve (12) submissions, plus a petition signed by landowners of nine (9) properties in Walker Place and Boundary Rd.

The re-notification of the amended application between 18 October 2022 to 4 November 2022 received a total of three (3) submissions, plus a petition signed by landowners of nine properties in Walker Place and Boundary Rd.

The map below illustrates the location of the nearby landowner 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"> X SUBMISSIONS RECEIVED 	 PROPERTY SUBJECT OF DEVELOPMENT	
<p>FIVE (5) SUBMISSIONS WERE RECEIVED OUT OF MAP RANGE OR UNKNOWN</p>			

Twelve (12) submissions, plus a petition signed by landowners of nine properties in Walker Place and Boundary Rd, and three (3) submissions, plus a petition signed by landowners of nine properties in

Walker Place and Boundary Road to the amended proposal, objected to the development, generally on the grounds that:

- The road reserve should be 14.5m, carriageway 7.5m and verge 3.5m, being Local Road standard. Acknowledges that the amended plans increase the road widths but not to Local Road standard.
- Footpath should be provided along eastern side and be increased in width.
- Must address the remaining substandard road, increase size of turning circle and remove boundary fence in the middle of the carriageway at No. 263 Malton Road and be consistent with DA/514/2022.
- Access for residents of Walker Place to be maintained at all times during construction works.
- Road to be widened before building on new lots.
- Long history regarding the road and resulted in unsafe and chaotic situation in Walker Place due to narrowness and heavy use for parking from parents of nearby Epping North Public School and residents.
- Safety concerns for residents, pedestrians, school children, drivers and emergency services from narrow width of road and vehicles reversing out of the new lots.
- No acknowledgement of the existing traffic issues, or cumulative traffic impact from current DA and DA/514/2022.
- Parking signage required and consider “No Parking” restrictions at school drop off and pick up times.
- Services for the new lots should be located in the eastern verge, be underground and no connection to existing services in Walker Place as they were paid for by the existing development.
- Stormwater into No. 125 and No. 125A Boundary Road to be addressed and questions proposed drainage due to the slope to the rear of the lots.
- Setbacks to new buildings should be minimum 7.6m to maintain existing streetscape.
- Setbacks, footprint and private open space plan is not dimensioned.
- Subdivision layout should be a mirror of the lots opposite i.e. 3 lots.
- Access to the lots should be via the existing battle-axe handle.
- Excessive tree removal and should not occur on the lots at subdivision stage. Battle-axe handle should be used as a vegetation corridor.
- Heritage significance of No. 263 Malton Road should be considered, even though not listed.
- Developer to construct new 1.8m high fences along boundaries.
- Minimum lot size requirements should be adhered to and no justification for it to be disregarded or given special treatment and Clause 4.6 Variation Request contains insufficient justification.

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

5.1.1 Road & Traffic

Council's Engineer has determined that Walker Place is classified as a Local Road, however a narrower verge on the development side is supported provided the Local Road carriageway width of 7.5 metres is achieved. As such, the road will not be widened to the standard requested in the submissions with respect to the verge.

The amended plans increase the width of the proposed road and match DA/514/2022 to ensure a consistent full length of Walker Place is delivered. Given the timing of the two applications being determined, it is likely that the road will be constructed for the full length at the same time. Conditions of consent are recommended regarding the road construction and dedication to Council prior to the issue of the Subdivision Certificate for creation of the lots; a traffic control plan to ensure that residents in Walker Street are notified of the works and plans are in place for resident access; and a "No Parking" restriction be posted along the eastern side of the road (development side) subject to consideration and approval by the Hornsby Local Traffic Committee; and a footpath be provided along the western side of Walker Place.

Council's Traffic and Development Engineers reviewed the proposal and recommended road widths, "No Parking" restriction and footpath location in order to address traffic and pedestrian safety concerns. It is envisaged that the completion of Walker Place will reduce existing traffic and parking issues associated with the school as there will be limited parking opportunities in Walker Place for pick up or drop off due to the completion of the road and development of the vacant land.

The existing fence in the cul-de-sac will be removed as part of the road construction of DA/514/2022.

Council's assessment regarding traffic management arising from the proposal is provided in Section 2.5.6 of this report.

5.1.2 Services

Services will be constructed underground and there is no ability to dictate connections or prevent connection into the western side of Walker Place, which is determined by the relevant public authority.

5.1.3 Drainage

The amended plans propose satisfactory stormwater arrangements for drainage of the lots, including individual stormwater detention basins at the front of the lots and drainage to the street and new pipes in Walker Place, connecting into the existing system in Boundary Road. An area along the rear, eastern boundary of the lots is identified as bypassing detention and an inlet pit provided at the rear of each lot and has been reviewed by Council's Engineer and deemed satisfactory. The concern raised regarding stormwater into No. 125 and No. 125A Boundary Road is addressed in the design and appropriate pipes and pipes proposed.

5.1.4 Lot Layout, Front Setback & Future Dwellings

A review of the plans demonstrates that the proposed subdivision design provides for regular shaped lots and demonstrates compliance with the relevant HDCP controls including site coverage, landscaping, open space and car parking.

On Walker Place, there is a variety of front setbacks, with some exceeding 7.6m. For the purposes of the building envelope, a minimum 6m setback has been adopted, noting that the required building envelope allows for ample room available for the future dwelling beyond the indicated envelope, which would provide an increased front setback.

This allows for flexibility in the dwelling design and likely increase in the front setback. As this application is for subdivision only, the Constraints Plan indicates that there is the opportunity to increase setbacks and still achieve the necessary private open space, which would be assessed in detail as to the time of an application for the dwelling. The building envelope on the plans is indicative only and does not form a restriction on the land, to allow for flexibility in the dwelling design and ability to increase front setbacks.

A submission has indicated that the subdivision layout should be a mirror of the lots opposite i.e. 3 lots. This is not necessary given the variety of housing forms and lot sizes and shapes in the area and the proposed lots can be in harmony with the surrounding area without being the same. Section 2.1.2 considers the proposed subdivision layout and lot size in detail.

5.1.5 Battle-axe Handle

It is unclear in the application as to what the use of the battle-axe handle on Proposed Lot 1 is proposed to be given that the lot will have direct vehicular access to Walker Place and that the access handle is narrowed due to the road construction. It would be desirable for the trees to remain in the handle; however they are impacted by the road widening. As such, the recommended replacement planting is to occur both on the individual lots and along the handle and all vehicular access is restricted to Walker Place and not via the handle.

5.1.6 Tree Removal

The proposed development retained vegetation primarily along the eastern boundary, which will be the rear of the lots. Replacement planting is proposed by way of two trees in the front setback of each proposed lot, as well as elsewhere throughout the development and along the battle-axe handle by way of a recommended condition of consent.

5.1.7 Heritage

A submission requested that the dwelling at No. 263 Malton Road and its heritage significance should be considered. This dwelling is not part of the current application but is part of DA/514/2022 and is proposed to be demolished. The proposed subdivision under this current application is not considered to impact upon No. 263 Malton Road, which is not listed as a heritage item and is not located in a Heritage Conservation Area.

5.1.8 Lot Size

A submission received to the amended plans, which are below the minimum lot size and rely upon a Clause 4.6 Variation request, seeks that the minimum lot size requirements be adhered to. Consideration has been given to the request and it is addressed in detail under Section 2.1.2. These types of requests are not uncommon and considered on an individual basis. An updated Clause 4.6 Variation Request was provided by the applicant which provides additional detail and justification. Council's assessment regarding the minimum lot size variation request is provided in Section 2.1.2 of this report.

5.2 Public Agencies

The development application does not trigger referral to external agencies.

6. THE PUBLIC INTEREST

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

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

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

CONCLUSION

The application proposes the demolition of structures and Torrens title subdivision of 2 lots into 6 lots.

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 twelve (12) submissions, plus a petition signed by landowners of nine properties in Walker Place and Boundary Road, during the public notification period and re-notification of the amended application received a total of three (3) submissions, plus a petition signed by landowners of nine properties in Walker Place and Boundary Road. The matters raised have been addressed in the body of the report and the issues do not warrant amendments to the proposal.

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

The reasons for this decision are:

- The request under Clause 4.6 of Hornsby Local Environmental Plan 2013 to contravene the lot size development standard is well founded. Strict compliance with the development standard is considered unreasonable and unnecessary in the circumstances of the case and sufficient environmental planning grounds have been submitted to justify the contravention to the development standard.
- The proposed development generally complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013.
- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, overshadowing, solar access, amenity or privacy.

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

RESPONSIBLE OFFICER

The officer responsible for the preparation of this report is Donna Clarke from Landmark Planning Pty Ltd.

RECOMMENDATION

THAT the Hornsby Shire Local Planning Panel assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to Clause 4.6 of the Hornsby Local Environmental Plan 2013 and approve Development Application No. DA/431/2022 for demolition of structures and Torrens title subdivision of 2 lots into 6 lots at Lots O & N DP 28986, Nos. 127 & 127A Boundary Road, North Epping, subject to the conditions of consent detailed in Schedule 1 of this report.

Schedule 1

CONDITIONS APPLICABLE TO BOTH STAGES

GENERAL CONDITIONS

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

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

1. Approved Plans and Supporting Documentation

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

Approved Plans

Plan No.	Plan Title	Drawn by	Dated	Council Reference
P00430-SK001 Rev D	Lot Layout	Group Development Services Pty Ltd	28/9/22	
P00430-SK002 Rev A	Lot Layout	Group Development Services Pty Ltd	28/9/22	
P00430-SK003 Rev A	Lot Layout	Group Development Services Pty Ltd	28/9/22	
P00430-SK004 Rev D	Lot Layout - Constraints	Group Development Services Pty Ltd	28/9/22	
001 Rev C	Cover Sheet	Group Development Services Pty Ltd	12/10/22	
002 Rev C	Site Locality Plan	Group Development Services Pty Ltd	12/10/22	
100 Rev C	Plan of Subdivision	Group Development Services Pty Ltd	12/10/22	
200 Rev C	Road Layout Plan	Group Development Services Pty Ltd	12/10/22	
210 Rev C	Road Details	Group Development Services Pty Ltd	12/10/22	
300 Rev C	Stormwater Drainage Plan	Group Development Services Pty Ltd	12/10/22	
301 Rev C	Stormwater Catchment Plan	Group Development Services Pty Ltd	12/10/22	
302 Rev C	Stormwater Longitudinal Sections	Group Development Services Pty Ltd	12/10/22	

Plan No.	Plan Title	Drawn by	Dated	Council Reference
500 Rev C	Vehicle Turning Movements	Group Development Services Pty Ltd	12/10/22	
600 Rev C	Tree Removal Plan	Group Development Services Pty Ltd	12/10/22	
601 Rev C	Tree Protection Details	Group Development Services Pty Ltd	12/10/22	
602 Rev C	Demolition Plan	Group Development Services Pty Ltd	12/10/22	
700 Rev C	Soil and Water Management Plan	Group Development Services Pty Ltd	12/10/22	
701 Rev C	Soil and Water Management Details	Group Development Services Pty Ltd	12/10/22	
Section 7.5, Page 24, Map B of the AIA	Tree Management Plan	McArdle Arboricultural Consultancy	17/10/22	

Supporting Documentation

Document Title	Prepared by	Dated	Council Reference
Waste Management Plan	Unknown	Undated	D08401631
Arboricultural Impact Assessment	McArdle Arboricultural Consultancy	17/10/22	D08514503

2. Construction Certificate

- a) A Subdivision Works Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any subdivision works under this consent.
- b) A separate Section 138 Roads Act Approval must be obtained from Council for all works within the public road reserve.
- c) The Subdivision Works Certificate plans must be consistent with the Development Consent plans.

3. Section 7.11 Development Contributions

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

Description	Contribution (4)
Roads	\$5,826.35
Open Space and Recreation	\$45,655.80
Community Facilities	\$28,119.80
Plan Preparation and Administration	\$398.00
TOTAL	\$79,999.95

being for an additional 4 lots.

- b) The value of this contribution is current as of 7 November 2022. If the contribution is not paid within the financial quarter that this condition was generated, the contribution payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 7.11 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

Where:

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

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

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

CPI_{DC} is the Consumer Price Index (Sydney – All Groups) for the financial quarter at the date applicable in this Development Consent Condition.

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

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

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

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

4. Appointment of a Project Arborist

- a) To ensure the trees that must be retained are protected, a project arborist with AQF Level 5 qualifications must be appointed to assist in ensuring compliance with the conditions of consent and provide monitoring reports as specified by the conditions of consent.

- a) Details of the appointed project arborist must be submitted to the PCA with the application for the construction certificate.

5. Removal of Trees

- a) This development consent permits the removal of trees numbered 1, 2, 3, 4, 5, 6, 8, 9, 10, 11a, 11b, 11c, 12, 13, 14, 15, 28, 31 and 32 as identified in the approved Tree Management Plan within the Arborist Impact Assessment (AIA) prepared by McArdle Arboricultural Consultancy, dated 17 October 2022.
- b) No consent is granted for the removal of trees numbered 16, 17, 19, 20, 21, 22, 23, 24a, 24b, 25, 26, 27, 29, and 30 as these trees contribute to the established landscape amenity of the area/streetscape.

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

6. Tree Pruning

This development consent does not permit the pruning of any trees.

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

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

7. Utility Services

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

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

8. Construction Management Plan (CMP)

To assist in the protection of the public, the environment and Council's assets, a separate Construction Management Plan must be prepared by a suitably qualified environmental consultant in consultation with a qualified traffic engineer and AQF 5 arborist, and submitted to Council's Compliance Team at <https://www.hornsby.nsw.gov.au/property/build/applicationforms> for review and approval according to the following requirements:

- a) The CMP must detail the contact information for developers, builder, private certifier and any emergency details during and outside work hours.
- b) A Construction Traffic Management Plan (CTMP) including the following:
 - i) The order of construction works and arrangement of all construction machines and vehicles being used during all stages.

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- ii) The CTMP plans shall be in accordance with all other plans submitted to Council as part of this development proposal.
 - iii) A statement confirming that no building materials, work sheds, vehicles, machines or the like shall be allowed to remain in the road reserve area without the written consent of Hornsby Shire Council.
 - iv) The Plan shall be in compliance with the requirements of the Roads and Maritime Services *Traffic control at work sites Manual 2018* and detail:
 - a. Public notification of proposed works;
 - b. Long term signage requirements;
 - c. Short term (during actual works) signage;
 - d. Vehicle Movement Plans, where applicable;
 - e. Traffic Management Plans;
 - f. Pedestrian and Cyclist access and safety.
 - v) Traffic controls including those used during non-working hours. Pedestrian access and two-way traffic in the public road must be able to be facilitated at all times.
 - vi) Details of parking arrangements for all employees and contractors, including layover areas for large trucks during all stages of works. The parking or stopping of truck and dog vehicles associated with the development will not be permitted other than on the site and the plan must demonstrate this will be achieved.
 - vii) Confirmation that a street 'scrub and dry' service will be in operation during all stages of works.
 - viii) Proposed truck routes to and from the site including details of the frequency of truck movements for all stages of the development.
 - ix) Swept path analysis for ingress and egress of the site for all stages of works.
 - x) Site plans for all stages of works including the location of site sheds, concrete pump and crane locations, unloading and loading areas, waste and storage areas, existing survey marks, vehicle entry, surrounding pedestrian footpaths and hoarding (fencing) locations.
 - xi) The total quantity and size of trucks for all importation and exportation of fill on site throughout all stages of works, and a breakdown of total quantities of trucks for each stage of works.
 - xii) The number of weeks trucks will be accessing and leaving the site with excavated or imported fill material.
 - xiii) The maximum number of trucks travelling to and from the site on any given day for each stage of works.
 - xiv) The maximum number of truck movements on any given day during peak commuting periods for all stages of works.

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- xv) The source site location of any proposed fill to be imported to the site, for all stages of works.
 - xvi) The Plan must state that the applicant and all employees of contractors on the site must obey any direction or notice from the Prescribed Certifying Authority or Hornsby Shire Council in order to ensure the above.
 - xvii) If there is a requirement to obtain a Work Zone, Out of Hours permit, partial Road Closure or Crane Permit, the Plan must detail these requirements and include a statement that an application to Hornsby Shire Council will be made to obtain such a permit.
- c) A Construction Waste Management Plan detailing the following:
- i) Details of the importation or excavation of soil and fill, the classification of the fill, disposal methods and authorised disposal depots that will be used for the fill.
 - ii) Asbestos management requirement and procedures for removal and disposal from the site in accordance with AS 2601–2001 – *‘The Demolition of Structures’*, and the *Protection of the Environment Operations (Waste) Regulation 2005*.
 - iii) General construction waste details including construction waste skip bin locations and litter management for workers.
- d) A Tree Protection Plan (TPP) prepared by an AQF 5 Arborist in accordance with any approved Arboricultural Impact Assessment and tree location plans, detailing the following:
- iv) 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.
 - v) Construction methodology to avoid damage to trees proposed to be retained during construction works.
 - vi) Specifications on tree protection materials used and methods within the TPZ or SRZ.
 - vii) Location of dedicated material storage space on site outside of TPZ’s and SRZ’s for retained trees.
- e) A Construction Noise and Vibration Management Plan (CNMP) which includes:
- i) Existing noise and vibration levels within the proximity of the proposed development site.
 - ii) Details of the extent of rock breaking or rock sawing works forming part of the proposed development works.
 - iii) The maximum level of noise and vibration predicted to be emitted during each stage of construction.
 - iv) The duration of each stage of works where the maximum level of noise and vibration are predicted to be emitted for.
 - v) Details of mitigation measures, inclusive of respite periods, that will meet acoustic standards and guidelines at each stage of works.

- vi) Details of a complaints handling process for the surrounding neighbourhood for each stage of works.
- f) Identification of approved sediment and erosion control measures.

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

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

10. Protection of Adjoining Areas

A temporary hoarding, fence or awning must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

- a) Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic.
- b) Could cause damage to adjoining lands by falling objects.
- c) Involve the enclosure of a public place or part of a public place.
- d) Have been identified as requiring a temporary hoarding, fence or awning within the Council approved Construction Management Plan (CMP).

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

11. Toilet Facilities

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

12. Erosion and Sediment Control

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

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

13. Installation of Tree Protection Measures

- a) Trees to be retained and numbered 16, 17, 19, 20, 21, 22, 23, 24a, 24b, 25, 26, 27, 29, and 30 as identified on the approved Tree Management Plan of the Arboricultural Impact Assessment (AIA) provided by McArdle Arboricultural Consultancy dated 17 October 2022 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 Management Plans prepared by the McArdle Arboricultural Consultancy.
 - ii) For the duration of construction works, in accordance with the Tree Management Plans prepared by the McArdle Arboricultural Consultancy.
- b) Tree protection fencing for the trees to be retained numbered 16, 17, 19, 20, 21, 22, 23, 24a, 24b, 25, 26, 27, 29, and 30 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) Tree crown protection measures are required and must be installed by the AQF 5 project arborist.
- e) The circumference of the trunk(s) must be wrapped in hessian material to provide cushioning for the installation of timber planks.
- f) Timber planks (50 x100mm) must be spaced at 100mm intervals and must be attached using adjustable ratchet straps.
- g) All tree protection zones must have a layer of wood-chip mulch at a depth of between 150mm and 300mm.
- h) 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 DEMOLITION AND CONSTRUCTION
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14. Road Opening Permit

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

15. Construction Work Hours

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

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

16. 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.

17. Environmental Management

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

18. 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.

19. 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.

20. Landfill not Permitted

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

21. Waste Management

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

22. Compliance with Construction Management Plan

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

23. 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

24. Maintaining the Health of Trees Approved for Retention

The appointed project arborist must monitor and record any and all necessary actions required to maintain tree health and condition for trees numbered 16, 17, 19, 20, 21, 22, 23, 24a, 24b, 25, 26, 27, 29, and 30 on the approved plans.

25. Maintaining Tree Protection Measures

Tree Protection Measures must be maintained by the project arborist in accordance with Condition No. 13 of this consent for the duration of works.

26. 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 40 mm.
- b) The new driveway must be constructed using the following process:
 - i) To minimise soil compaction the proposed driveway must be built above grade using sensitive construction techniques in the form of piers or screw pilings.
 - ii) To minimise soil compaction all imported material in the vicinity of the replacement driveway must be distributed by hand.
- c) 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 driveway 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 metre undertaken manually to locate roots and allow for pruning in accordance with Condition No. 26 a).
- d) Grade changes in the form of filling, are permissible outside the Structural Root Zone in conjunction with piers.
- 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; and
 - iii) Installation of scaffold boarding above the woodchip and geotextile fabric.

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

27. Sydney Water – s73 Certificate

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

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

28. Damage to Council Assets

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

29. Preservation of Survey Marks

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

30. Boundary Fencing

- a) The exact location, design and costing for the erection of boundary fencing are to be the subject of negotiation and agreement in accordance with the relevant requirements of the *Dividing Fences Act 1991*.
- b) Fencing must be erected along all property boundaries behind the front building alignment to a height of 1.8 metres.

Note: Alternative fencing may be erected subject to the written consent of the adjoining property owner(s).

31. Replacement Tree Requirements

- a) The trees approved for removal under this consent, being trees numbered 1, 2, 3, 4, 5, 6, 8, 9, 10, 11a, 11b, 11c, 12, 13, 14, 15, 28, 31 and 32 must be offset through replacement planting of a minimum of 19 trees. The replacement trees are to be wholly contained within the proposed lots and located:
 - i) with a minimum of two (2) per lot within the front setback of each proposed lot in the final subdivision;
 - ii) in the rear of the lots along the eastern boundary; and
 - iii) with a minimum of five (5) replacement trees within the handle of residue Lot 1 and Lot 204.
- b) All replacement plantings must be species selected from the *‘Trees Indigenous to Hornsby Shire (as of 1 September 2011)’* document available for viewing on the Hornsby Council's website <http://www.hornsby.nsw.gov.au/environment/flora-and-fauna/tree-management/indigenous-trees>
- c) The location and size of tree replacement planting must comply with the following:
 - i) All replacement trees must be located in either front or rear setbacks and planted 4 metres or greater from the foundation walls of the approved indicative building envelopes.
 - ii) The pot size of the replacement trees must be a minimum 45 litres.
 - iii) All replacement trees must be a minimum of 3 metres in height when planted.
 - iv) All replacement trees must have the potential to reach a mature height greater than 10 metres.

32. Final Certification

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

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

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

ADDITIONAL CONDITIONS APPLICABLE TO STAGE 1 – TORRENS TITLE SUBDIVISION OF TWO LOT INTO THREE LOTS

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

33. Stormwater Drainage

The stormwater drainage system for the development must be designed in accordance with Project No. P00430 Drawing No. 300, 301 & 302 Revision C dated 12.10.2022 by Group Development Services Pty Ltd, AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and the following requirements:

- a) Connected to an existing Council piped drainage system with the following requirements:
- b) Council's drainage system be piped to contain the 20 year *Average Recurrence Interval* storm event with an overland flow provided above it.
- c) An inter-allotment stormwater drainage system to service the proposed subdivision with pits being cast in situ or pre cast concrete pits being used.

34. Public Road and Drainage Works

A separate Section 138 Roads Act Approval must be obtained from Council for all works within the public road reserve. All road works approved under this consent must be designed in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and the following requirements:

- a) A Design Certifications Report Checklist in Annexure A and the civil design drawings shall be prepared in accordance with Annexure B – Minimum Drafting Guidelines in the Hornsby Council AUS SPEC Specifications.

- b) The extension of the existing public drainage system from the intersection with Boundary Road to the property frontage of proposed Lot 101 in Walker Place with a minimum 375 diameter RCP.
- c) Kerb and gutter across the frontage of development site in Walker Place with a minimum half road pavement construction together with drainage and turfed nature strip and kerb ramp.
- d) The road pavement shall be designed with a width measured from the existing kerb alignment shall be a minimum 7.5m.
- e) The existing road pavement to be saw cut a minimum of 500 mm from the existing edge of the bitumen and reconstructed.
- f) The submission of a compaction certificate from a geotechnical engineer for any fill within road reserves, and all road sub-grade and road pavement materials.

35. Footpath

A concrete footpath must be designed along the western side of Walker Place in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and the following requirements:

- a) Pouring of the concrete footpath on the western side of Walker Place for the full length of the frontage of the subject site up to Boundary Road.
- b) The land adjoining the footpath to be fully turfed.
- c) Any public utility adjustments to be carried out at the cost of the applicant and to the requirements of the relevant public authority.

Note: The plans of the footpath must be submitted and approved by Council's Manager Traffic and Road Safety prior to the issue of a Construction Certificate. Please submit this information to TrafficEngineering&RoadSafety@hornsby.nsw.gov.au for approval.

36. Parking Restrictions

Subject to consideration and approval by the Hornsby Local Traffic Committee, "No Parking" restrictions be posted along the eastern side of the widened road (development side). Written evidence is to be provided to Council of the decision of the Hornsby Local Traffic Committee prior to the issue of a Construction Certificate.

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

37. Dedication of Public Road

All proposed public roads, as detailed on the approved plans Plan No. P00430-SK002 Revision A dated 28-09-2022 by Group Development Services Pty Ltd must be dedicated to Council as a 'public road' at no cost.

38. Creation of Easements

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

- a) The creation of a “*Positive Covenant*” over the proposed Lot 101 & 102 requiring that any future development is to provide a minimum 5,000 litre rainwater tank to be connected to all toilets, laundry use and irrigation purposes or provide a raingarden with a minimum filter area of 6m² to meet the water quality targets outlined in the Hornsby DCP 2013.
- b) The creation of a “*Positive Covenant*” over the proposed Lot 101 & 102 requiring that any future development is to provide an on-site detention system. The on-site detention system is to have a storage capacity of 5 cubic metres and a maximum discharge of 8 litres per second into Council’s drainage system in accordance with Council’s prescribed wording.
- c) “*Restriction on the Use of Land*” over residue Lot 1 to prohibit vehicular access from Boundary Road, with all vehicular access required via Walker Place.

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

39. Works as Executed Plan

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

ADDITIONAL CONDITIONS APPLICABLE TO STAGE 2 – DEMOLITION OF THE EXISTING DWELLING AND TORRENS TITLE SUBDIVISION OF PROPOSED RESIDUE LOT 1 INTO FOUR LOTS

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

40. Subdivision – Lodgement of Plan

Evidence that a plan of subdivision creating the proposed lots in **Stage 1 has been registered** with the *NSW Department of Lands* must be submitted to Council or the Principal Certifying Authority.

41. Stormwater Drainage

The stormwater drainage system for the development must be designed in accordance with Project No. P00430 Drawing No. 300, 301 & 302 Revision C dated 12.10.2022 by Group Development Services Pty Ltd, AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and the following requirements:

- a) Connected to an existing Council piped drainage system with the following requirements:
- b) Council’s drainage system be piped to contain the 20 year *Average Recurrence Interval* storm event with an overland flow provided above it.

- c) An inter-allotment stormwater drainage system to service the proposed subdivision with pits being cast in situ or pre cast concrete pits being used.

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

42. Creation of Easements

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

- a) The creation of a “*Positive Covenant*” over the proposed Lot 201, 202, 203 & 204 requiring that any future development is to provide a minimum 5,000 litre rainwater tank to be connected to all toilets, laundry use and irrigation purposes or provide a raingarden with a minimum filter area of 6m² to meet the water quality targets outlined in the Hornsby DCP 2013.
- b) The creation of a “*Positive Covenant*” over the proposed Lot 201, 202, 203 & 204 requiring that any future development is to provide an on-site detention system. The on-site detention system is to have a storage capacity of 5 cubic metres and a maximum discharge of 8 litres per second into Council’s drainage system in accordance with Council’s prescribed wording.
- c) “*Restriction on the Use of Land*” over Lot 204 to prohibit vehicular access from Boundary Road, with all vehicular access required via Walker Place.

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

43. Works as Executed Plan

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

- 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.

Subdivision Certificate Requirements

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

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

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

Fees and Charges – Subdivision

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

Tree and Vegetation Preservation

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

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

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

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

Dial Before You Dig

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

Telecommunications Act 1997 (Commonwealth)

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

Asbestos Warning

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

www.environment.nsw.gov.au

www.adfa.org.au

www.safework.nsw.gov.au

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

House Numbering

The house numbering for this subdivision shall be:

Lot	Street Number	Street Name	Street Type	Locality
Lot 101	13	Walker	Place	North Epping
Lot 102	11	Walker	Place	North Epping
Lot 1	127	Boundary	Road	North Epping
Lot 201	9	Walker	Place	North Epping
Lot 202	7	Malton	Road	North Epping
Lot 203	5	Walker	Place	North Epping
Lot 204	3	Walker	Place	North Epping