



# **BUSINESS PAPER**

## **GENERAL MEETING**

**Wednesday 8 November 2023  
at 6:30PM**



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## **AGENDA AND SUMMARY OF RECOMMENDATIONS**

### **ACKNOWLEDGEMENT OF COUNTRY**

Statement by the Chairperson:

*"Council recognises the Traditional Owners of the lands of Hornsby Shire, the Darug and GuriNgai peoples, and pays respect to their Ancestors and Elders past and present and to their Heritage. We acknowledge and uphold their intrinsic connections and continuing relationships to Country."*

### **PRESENT**

### **NATIONAL ANTHEM**

### **OPENING PRAYER/S**

Father Wayoyi of St Agatha's Catholic Church, Pennant Hills will open the Meeting in Prayer.

### **ACKNOWLEDGEMENT OF RELIGIOUS DIVERSITY**

Statement by the Chairperson:

*"We recognise our Shire's rich cultural and religious diversity and we acknowledge and pay respect to the beliefs of all members of our community, regardless of creed or faith."*

### **VIDEO AND AUDIO RECORDING OF COUNCIL MEETING**

Statement by the Chairperson:

*"I advise all present that tonight's meeting is being video streamed live via Council's website and also audio recorded for the purposes of providing a record of public comment at the meeting, supporting the democratic process, broadening knowledge and participation in community affairs, and demonstrating Council's commitment to openness and accountability. The audio and video recordings of the non-confidential parts of the meeting will be made available on Council's website once the Minutes have been finalised. All speakers are requested to ensure their comments are relevant to the issue at hand and to refrain from making personal comments or criticisms. No other persons are permitted to record the Meeting, unless specifically authorised by Council to do so."*

### **APOLOGIES / LEAVE OF ABSENCE**

### **POLITICAL DONATIONS DISCLOSURE**

Statement by the Chairperson:

*"In accordance with Section 10.4 of the Environmental Planning and Assessment Act 1979, any person or organisation who has made a relevant planning application or a submission in respect of a*

*relevant planning application which is on tonight's agenda, and who has made a reportable political donation or gift to a Councillor or employee of the Council, must make a Political Donations Disclosure Statement.*

*If a Councillor or employee has received a reportable political donation or gift from a person or organisation who has made a relevant planning application or a submission in respect of a relevant planning application which is on tonight's agenda, they must declare a non-pecuniary conflict of interests to the meeting, disclose the nature of the interest and manage the conflict of interests in accordance with Council's Code of Conduct."*

## **DECLARATIONS OF INTEREST**

Councillors are reminded of their Oath or Affirmation of Office made under section 233A of the Act and their obligations under the Council's Code of Conduct to disclose and appropriately manage conflicts of interest.

*Clause 4.16 and 4.17 of Council's Code of Conduct for Councillors requires that a councillor or a member of a Council committee who has a pecuniary interest in a matter which is before the Council or committee and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").*

- 4.16 A councillor who has a pecuniary interest in any matter with which the council is concerned, and who is present at a meeting of the council or committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.*
- 4.17 The councillor must not be present at, or in sight of, the meeting of the council or committee:*
- a) at any time during which the matter is being considered or discussed by the council or committee, or*
  - b) at any time during which the council or committee is voting on any question in relation to the matter.*

*Clause 5.10 and 5.11 of Council's Code of Conduct for Councillors requires that a councillor or a member of a Council committee who has a non pecuniary interest in a matter which is before the Council or committee and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").*

- 5.10 Significant non-pecuniary conflict of interests must be managed in one of two ways:*
- a) by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or*
  - b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.16 and 4.17.*

- 5.11 *If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.*

## **CONFIRMATION OF MINUTES**

THAT the Minutes of the General Meeting held on 11 October, 2023 be confirmed; a copy having been distributed to all Councillors.

## **PETITIONS**

## **PRESENTATIONS**

## **RESCISSION MOTIONS**

## **MAYORAL MINUTES**

## **ITEMS PASSED BY EXCEPTION / CALL FOR SPEAKERS ON AGENDA ITEMS**

### Note:

*Persons wishing to address Council on matters which are on the Agenda are permitted to speak, prior to the item being discussed, and their names will be recorded in the Minutes in respect of that particular item.*

*Persons wishing to address Council on **non agenda matters**, are permitted to speak after all items on the agenda in respect of which there is a speaker from the public have been finalised by Council. Their names will be recorded in the Minutes under the heading "Public Forum for Non Agenda Items".*

## **GENERAL BUSINESS**

- *Items for which there is a Public Forum Speaker*
- *Public Forum for non agenda items*
- *Balance of General Business items*

## **OFFICE OF THE GENERAL MANAGER**

### **Page Number 1**

### **Item 1 GM44/23 HORNSBY SHIRE COUNCIL 2022-2023 ANNUAL REPORT**

## **RECOMMENDATION**

THAT the:

1. Hornsby Shire Council 2022-2023 Annual Report be endorsed.

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2. Annual Report be supplemented by Council's 2022/23 Audited Financial Statements once they are "presented to the public" at the 8 November 2023 General Meeting (Director's Report No. CS71/23).

**Page Number 5****Item 2 GM52/23 TEMPORARY SUSPENSION OF ALCOHOL FREE ZONE IN CORONATION STREET CARPARKS****RECOMMENDATION**

THAT:

1. Council temporarily suspend the Alcohol-Free Zone in the Coronation Street Carparks (1-3 Coronation Street, Beattie Lane and rear of 1-5 Jersey Street Hornsby) within the Hornsby Town Centre Alcohol Free Zone from 12:00pm to 10pm on 1 December 2023 to accommodate a licensed bar as part of the Coronation StrEat! opening event pursuant to the *Ministerial Guidelines on Alcohol-Free Zones*.
2. Publish notice of a suspension and temporarily remove signage as required under section 645 (1) and (3) of the *Ministerial Guidelines on Alcohol-Free Zones*.

**CORPORATE SUPPORT DIVISION****Page Number 9****Item 3 CS69/23 INVESTMENTS AND BORROWINGS FOR 2023/2024 - STATUS FOR THE PERIOD ENDING 30 SEPTEMBER 2023****RECOMMENDATION**

THAT the contents of Director's Report No. CS69/23 be received and noted.

**Page Number 12****Item 4 CS71/23 2022/23 AUDITED FINANCIAL STATEMENTS - PRESENTATION TO THE PUBLIC****RECOMMENDATION**

THAT the 2022/23 General Purpose Financial Statements and associated Auditor's Report, as presented to the public on 8 November 2023, be adopted.

**Page Number 16****Item 5 CS72/23 2023/24 BUDGET - SEPTEMBER 2023 QUARTER REVIEW**

**RECOMMENDATION**

THAT:

1. The September 2023 Quarter Review of the Operational Plan (Budget) for 2023/24 be received and noted.
2. Council determine if any of the three unfunded Councillor initiatives outlined in the Discussion Section of this Report be included in the 2023/24 Budget.

**COMMUNITY AND ENVIRONMENT DIVISION****Page Number 26****Item 6 CE14/23 COMMUNITY EVENT GRANTS PROGRAM****RECOMMENDATION**

THAT Council allocate funding from its Community Events Grants Program as follows:

1. \$3,000 to the Russian Community Group for a Christmas Celebration.
2. \$3,000 to the Hornsby Swim Club for a 60<sup>th</sup> Anniversary Meet.

**Page Number 29****Item 7 CE15/23 PROVISION OF OWNERS CONSENT - MARK TAYLOR OVAL PAVILION DEVELOPMENT APPLICATION****RECOMMENDATION**

THAT:

1. Council provide owner's consent for the Northern District Cricket Club to lodge a Development Application for the demolition and reconstruction of the 1990's pavilion addition.
2. Pending receipt of development approval and prior to the commencement of construction work, an informal workshop be held confirming scope of work and budget availability to ensure works are able to be delivered within the remaining grant funding, and progress regarding the development of a new licence agreement for the Northern District Cricket Club for use of the pavilion facilities.

**PLANNING AND COMPLIANCE DIVISION****Page Number 34****Item 8 PC23/23 DRAFT HORNSBY TOWN CENTRE MASTERPLAN - REPORT ON SUBMISSIONS**



**RECOMMENDATION**

THAT:

1. Council adopt the Hornsby Town Centre Masterplan attached to Director's Report No. PC23/23 incorporating the following amendments:
  - A lower non-residential floor space requirement of 0.5:1 on all sites within the Central North and Central Heart Precincts.
  - A maximum building height of up to 36 storeys for the western portions on the Westfield Hornsby site, with a tapering of building heights of between 12-15 storeys in the eastern portions of the Retail Core Precinct.
  - Maximum building heights along the rail corridor from 21 to 18 and 16 storeys north of Burdett Street.
  - Minimum podium level setbacks of 9 metres for any proposed redevelopment along Hunter Street.
  - Minor changes to precinct boundaries and the Hornsby RSL site for clarity and accuracy.
2. Council write to the Minister for Planning and Public Spaces seeking a commitment to assist the implementation, funding and delivery of the Masterplan, noting coordination of State services is required to accommodate the anticipated growth.
3. Supporting documentation, including Development Controls, Infrastructure Funding Strategy, Local Contribution Plan, and a Public Domain Plan be prepared and reported to Council at a future meeting.
4. Submitters be advised of Council's decision.

**Page Number 48****Item 9 PC27/23 REPORT ON SUBMISSIONS - BYLES CREEK PLANNING PROPOSAL****RECOMMENDATION**

THAT:

1. Council endorse the Byles Creek Planning Proposal as exhibited (attached to Director's Report No. PC27/23) and submit it to the Department of Planning and Environment for finalisation to amend the Hornsby Local Environmental Plan 2013.
2. Council approve the Hornsby Development Control Plan 2013 amendments (attached to Director's Report No. PC27/23) to come into force upon finalisation of the Planning Proposal.
3. Submitters be advised of Council's decision.

**Page Number 57****Item 10 PC28/23 REPORT ON SUBMISSIONS - HERITAGE INTERPRETATION STRATEGY**

**RECOMMENDATION**

THAT:

1. Council endorse the Heritage Interpretation Strategy attached to Director's Report No. PC28/23.
2. Submitters be advised of Council's decision.

**INFRASTRUCTURE AND MAJOR PROJECTS DIVISION**

Nil

**PUBLIC FORUM – NON AGENDA ITEMS**

**QUESTIONS WITH NOTICE**

**MAYOR'S NOTES**

Page Number 64

Item 11 MN12/23 MAYORS NOTES 01 OCTOBER 2023 TO 31 OCTOBER 2023

**NOTICES OF MOTION**

**SUPPLEMENTARY AGENDA**

**MATTERS OF URGENCY**

## 9 REPORT ON SUBMISSIONS - BYLES CREEK PLANNING PROPOSAL

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### EXECUTIVE SUMMARY

- At its meeting on 14 December 2022, Council resolved to endorse progression of the Byles Creek Planning Proposal and associated amendments to the *Hornsby Development Control Plan 2013* (Hornsby DCP).
- The Planning Proposal seeks to amend planning controls in the *Hornsby Local Environmental Plan 2013* (Hornsby LEP) to protect the unique environmental, social and aesthetic qualities of the Byles Creek Study Area and minimise impacts of residential development on the natural environment.
- On 18 May 2023, the Department of Planning and Environment (DPE) issued a determination authorising Council to proceed with exhibition of the Planning Proposal, subject to conditions.
- The Planning Proposal was amended to address the determination conditions and submitted to DPE on 23 June 2023. On 25 July 2023, the DPE confirmed exhibition of the Planning Proposal could progress. The Planning Proposal was exhibited with associated draft amendments to the Hornsby DCP from 18 August 2023 to 15 September 2023.
- A total of 28 community and 4 public authority submissions were received during the exhibition. Of the community submissions, 16 support the Planning Proposal, 1 is neutral and 11 are against. No objections from public authorities were received.
- Key issues raised include impact on property values and development potential, subdivision lot size and study area boundaries.
- Matters raised in submissions are addressed in this report. No changes are proposed to the Planning Proposal in response to submissions. It is recommended that Council endorse the Planning Proposal attached to this report and approve the associated DCP amendments.

**RECOMMENDATION****THAT:**

1. Council endorse the Byles Creek Planning Proposal as exhibited (attached to Director's Report No. PC27/23) and submit it to the Department of Planning and Environment for finalisation to amend the Hornsby Local Environmental Plan 2013.
2. Council approve the Hornsby Development Control Plan 2013 amendments (attached to Director's Report No. PC27/23) to come into force upon finalisation of the Planning Proposal.
3. Submitters be advised of Council's decision.

## PURPOSE

The purpose of this report is to address matters raised in submissions received during the exhibition of the Byles Creek Planning Proposal (Planning Proposal) and associated amendments to the Hornsby Development Control Plan 2013 (Hornsby DCP).

## BACKGROUND

The Planning Proposal seeks to protect the environmental, social and aesthetic qualities of the Byles Creek Study Area and minimise impacts of residential development on the natural environment. This would be achieved through an amendment to the Hornsby Local Environmental Plan 2013 (Hornsby LEP) to:

- Rezone all R2 Low-Density Residential land within the Study Area to C4 Environmental Living.
- Increase the minimum subdivision lot size for rezoned land within the Study Area from 600sqm to 40ha.
- Amend subdivision objectives to protect bushland and significant native vegetation.
- Map the riparian corridor within the Study Area and inserting a new additional local provision that must be considered when developing on riparian land.

The associated Hornsby DCP amendments are proposed to align existing watercourse and residential development controls with the proposed amendments to the Hornsby LEP. At its meeting on 14 December 2022, Council considered Director's Report No. PC24/22 concerning the Planning Proposal and associated Hornsby DCP amendments and resolved that:

1. *Council endorse the progression of the Byles Creek Planning Proposal attached to Director's Report No. PC24/22 for submission to the Department of Planning and Environment for a Gateway Determination.*
2. *The Planning Proposal be publicly exhibited in accordance with the Gateway Determination and consultation strategy identified in this report.*
3. *Council endorse the amendments to the Hornsby Development Control Plan 2013 attached to Director's Report No. PC24/22 for exhibition concurrently with the Planning Proposal.*
4. *Following exhibition, a report on submissions be presented to Council for its consideration.*

In accordance with Council's resolution, the Planning Proposal was submitted to the Department of Planning and Environment (DPE) for Gateway Determination on 19 December 2022. DPE issued a Gateway Determination on 18 May 2023, permitting the Planning Proposal to proceed to public exhibition subject to conditions. Amendments to the Planning Proposal were made to address the Gateway conditions and the amended Proposal and accompanying draft Hornsby DCP amendments were exhibited from 18 August 2023 to 15 September 2023.

## DISCUSSION

This report discusses the Gateway Determination amendments required to the Planning Proposal and issues raised in submissions during the public exhibition period.

### 1. Amendments to the Planning Proposal

DPE issued a Gateway Determination on 18 May 2023, 150 days following Council's submission of the Planning Proposal for endorsement for exhibition. The Gateway Determination required that

Council update the Planning Proposal and forward it to the Minister for Planning and Public Spaces for review and approval, prior to exhibition. The updates were to:

- Consider alternative methods to achieve the objective of managing development in the Study Area without rezoning of land.
- Further address the proposed minimum subdivision lot size of 40ha for all residential land within the Study Area.
- Remove a statement that the Planning Proposal would not significantly reduce the development potential of any residential properties within the Study Area.
- Justify an inconsistency with the objectives of Direction 6.1 – Residential Zones of Section 9.1 Ministerial directions.

On 23 June 2023, the amended Planning Proposal and detailed justification were submitted to DPE for consideration. The amendments did not alter the objectives of the Planning Proposal or proposed planning controls. On 25 July 2023, DPE confirmed the Planning Proposal met the conditions of the Gateway Determination and could be publicly exhibited.

## **2. Public exhibition and submissions**

The Planning Proposal and draft Hornsby DCP amendments were exhibited for 28 days, between 18 August 2023 and 15 September 2023.

During the exhibition, 28 submissions were received with 16 supporting the Planning Proposal, 11 against and 1 neutral. The submissions supporting the Planning Proposal and Hornsby DCP amendments identify the following benefits:

- Protection and conservation of vegetation in the Study Area.
- Protection for the Byles Creek corridor from deterioration as a result of inappropriate and damaging development.
- More appropriate development within the Study Area.

Government agency submissions were received from Sydney Trains, National Parks and Wildlife Service (NPWS), NSW Rural Fire Service (RFS) and NSW Environment and Heritage Group (EHG). These submissions are either supportive of the Planning Proposal or informational.

Key matters raised in the submissions objecting to the Planning Proposal are discussed below.

### **Impacts on property values and development potential**

Several submissions raise concerns that the proposed rezoning and increased minimum subdivision lot size would impact the development and subdivision potential of private properties, resulting in an adverse impact on property values.

Some submissions suggest that landowners should be compensated through refunding of past rate payments, or for Council to buy back any remaining undeveloped private land.

### **Comment**

An Economic Implications Analysis (EIA) was prepared by AEC to support the Planning Study. The EIA considered the potential economic impacts of the Planning Study recommendations, including rezoning and minimum lot size changes.

The EIA recognises that the rezoning of R2 Low Density Residential land to C4 Environmental Living within the Study Area would make certain land uses prohibited, including centre-based childcare facilities, educational establishments, places of public worship and veterinary hospitals. However, it notes that the highest and best use, detached dwellings, would continue to be permissible. As such, the EIA concludes that it is unlikely that the rezoning would have a material impact on land values.

The EIA acknowledges that the proposed increase to minimum allotment size from 600sqm to 40ha would prevent future residential subdivision within the Study Area. To measure the impact of this change, the EIA considered the existing improvements and environmental and planning constraints of each site. This analysis showed that five of the 433 privately owned properties within the Study Area, may have some potential to subdivide under the existing minimum lot size.

In accordance with the Gateway Determination, the Planning Proposal was updated prior to exhibition to include a more detailed analysis of the five lots identified in the EIA, providing context to the existing constraints that apply to these properties. It identifies that subdivision potential is heavily reliant on the ability to satisfactorily address significant environmental constraints in any proposal such as steep topography, vegetation, and bushfire affectation. Even with a subdivision approval, the carrying out and completion of subdivision works may not be financially feasible.

Based on the findings of the EIA and subsequent detailed analysis set out in the Planning Proposal, the proposed increase of minimum lot size within the Study Area accurately reflects the physical constraints and biodiversity values of the Study Area.

#### ***Recommendation***

That no changes be made to the Planning Proposal as a result of submissions commenting on impacts to property values and development potential.

#### **Alternate minimum subdivision lot size**

Some submissions suggest that the 40ha minimum subdivision lot size for the Study Area could be reduced while still allowing for protection of the environment. A suggested alternative lot size is 3ha.

#### ***Comment***

The Planning Study recommendation to apply a 40ha minimum subdivision lot size is consistent with Council's existing planning regime. C4 Environmental Living zoned land across Hornsby Shire such as at Dangar Island, Milsons Passage and Coba Point all share the 40ha lot size. This is intended to assist in preserving the unique values of these areas as subdivision often requires vegetation removal to accommodate new dwellings, services, bushfire asset protection zones (APZ) and other works.

An alternative lot size that is larger than 600sqm but less than 40ha would be inconsistent with existing C4 lot sizes across Hornsby Shire. An alternate minimum lot size would also conflict with the principal objectives of the Planning Proposal, being to protect the environmental, social and aesthetic qualities of the Study Area.

#### ***Recommendation***

That no changes be made to the Planning Proposal as a result of submissions requesting reduced minimum subdivision lot sizes.

#### **Adjustment to Study Area boundaries**

Some submissions request that certain properties within the Study Area along Sutherland Road, Malton Road and those with pre-existing developments be excluded from the proposed rezoning. The

reasons for the exclusion include distance of properties from the Byles Creek corridor, existing site conditions and lost development potential.

Conversely, one submission suggests the Study Area could be extended south-east to Day Road, Cheltenham as the area is subject to development that may impact threatened species such as the Powerful Owl.

#### **Comment**

The boundaries of the Study Area are defined within the Planning Study which was endorsed by Council. The boundaries were chosen as:

- There is an interface of these properties with the Byles Creek corridor (RE1 Public Recreation zoned land).
- The land generally provides high to medium environmental and ecological values, land constraints such as steep topography and bushfire affectation.
- The Study Area is readily defined where it is bounded by Malton Road, Sutherland Road, Azalea Grove, Kurrajong Street and Lane Cove National Park.

Any change to the Study Area boundaries would require further research and investigation that is outside the scope of the current Planning Proposal.

#### **Recommendation**

That no changes be made to the Planning Proposal as a result of submissions requesting amendment to the Study Area boundaries.

#### **Changes to the Planning Proposal and DCP**

One submission suggests that the undeveloped land adjoining Byles Creek, the bushland reserve and Lane Cove National Park should be rezoned to C2 Environmental Conservation.

Another submission requests that development controls be introduced to prevent the infiltration of artificial light into bushland and restrict the way glass is used to reduce the likelihood of bird collisions.

#### **Comment**

The Planning Study recommendation to apply the C4 Environmental Living zone to the Study Area is informed by consideration of the objectives of each Conservation zone, application within Hornsby Shire, case studies from comparable local councils, and DPE's Practice note (PN09-002).

DPE suggests that the C4 Environmental Living zone should apply to areas of existing low impact residential development, areas already zoned residential that have special environmental values and where environmental impacts from new development is the primary concern. Existing application of C4 Environmental Living zones in Hornsby Shire is generally in areas where there is currently some form of low-density residential development, such as at Dangar Island, Milsons Passage and Berowra Waters.

Section 1C.2.10 Services and Lighting of the Hornsby DCP already contains prescriptive measures for external and security lighting to be positioned in accordance with relevant Australian Standards to avoid light spillage.

Council has an endorsed Biodiversity Conservation Strategy 2020 which identifies the need to assess potential new standards for bird safe buildings, including information material, guidelines for retrofitting and DA assessment. Further consideration and research of the issue is required prior to



controls being implemented as part of the Hornsby DCP due to the implications for all types of development within Hornsby Shire, which is outside the scope of the current DCP amendments.

**Recommendation**

That no changes be made to the Planning Proposal as a result of submissions commenting on alternative land use zones and the addition of new DCP controls.

**Implementation of Planning Study recommendations**

One submission notes that a recommendation of the Planning Study is to increase community engagement programs targeting the Study Area. The submission requests Council's support to increase awareness for Powerful Owls. Another submission asks whether the Planning Proposal would introduce any incentives or subsidies for land management activities.

**Comment**

The Planning Proposal seeks to amend the Hornsby LEP and would not in itself introduce community engagement programs. These programs would generally be progressed separately in line with the actions of Council's adopted Local Strategic Planning Statement, Sustainability Hornsby 2040 and Biodiversity Conservation Strategy.

**Recommendation**

That no changes be made to the Planning Proposal as a result of submissions commenting on community education and incentive programs.

**Other objections and comments**

Some submissions comment that the Planning Proposal and Planning Study are a misuse of resources because they do not benefit Hornsby rate payers at large, they may impact insurance premiums and expose the Study Area to potential land claims by the Metropolitan Local Aboriginal Land Council or other indigenous groups.

**Comment**

Council endorsed the progression of the Byles Creek Planning Study using the restricted asset funds from the sale of No. 179 Beecroft Road, Cheltenham. Following the sale of No. 179 Beecroft Road, community consultation with Beecroft and Cheltenham communities identified the social, aesthetic, and environmental importance of protecting Byles Creek as a key community priority. The progression of the Planning Study aligns with this key priority.

The Byles Creek area is recognised as having many environmental constraints such as the watercourse, steep topography, vegetation, and bushfire affectation. The proposed amendments to the Hornsby LEP focus on land use planning controls and do not alter environmental constraints or interact with insurance premiums. Progression of the Planning Proposal will introduce controls that reflect the environmental capacity of the land. With respect to land claims, these can only be made by Local Aboriginal Land Councils over Crown land.

**Recommendation**

That no changes be made to the Planning Proposal as a result of submissions commenting on the use of Council resources, insurance premiums and land claims.

**3. State Agency Submissions**

Notification was sent to government agencies in accordance with the Gateway Determination. Responses were received from Sydney Trains, National Parks and Wildlife Services, NSW Environment and Heritage Group and the Rural Fire Service. No objections were raised to the Planning Proposal.

The National Parks and Wildlife Service notes that two properties, Nos. 100X and 107X Malton Road, Cheltenham are part of Lane Cove National Park and should be zoned C1 National Parks and Nature Reserves rather than the current RE1 Public Recreation zone. The suggestion concerning the rezoning of the two properties will be considered as part of a future housekeeping amendment to the Hornsby LEP.

### CONSULTATION

The Planning Proposal was exhibited between 18 August 2023 and 15 September 2023 in accordance with the *Hornsby Shire Community Engagement Plan 2021*, the public exhibition requirements of the *Local Environmental Plan Making Guidelines 2022* and the Gateway Determination. It included:

- Advertisement in the Hornsby Ku-ring-gai Post, Bush Telegraph, Galston Glenorie Community News, Dooral Roundup and Living Heritage.
- Advertisement on Council's 'Your Say Hornsby' website.
- Advertisement in Council's electronic newsletter.
- Letters to affected landowners who own, adjoin or are in proximity to the subject sites.
- Displays at the Hornsby and Pennant Hills local libraries.
- Consultation with public authorities including Transport for NSW, NSW Environment and Heritage Group, NSW National Parks and Wildlife Service, NSW Rural Fire Service and Ausgrid.

### BUDGET

Costs associated with the preparation and implementation of the Planning Proposal have been covered by the funds from the sale of No.179 Beecroft Road, Cheltenham.

### POLICY

The Gateway Determination requires that the Planning Proposal be finalised, and a new Hornsby LEP be made by 18 March 2024. The Determination does not authorise Council to be the local planning proposal authority for this Planning Proposal. Consequently, Council must prepare a finalisation package to be reviewed by DPE who will make and notify a new Hornsby LEP.

Once endorsed, the DCP amendments attached to this report would come into effect on the making of the Planning Proposal.

### CONCLUSION

The Byles Creek Planning Proposal and draft amendments to the Hornsby DCP were publicly exhibited from 18 August 2023 to 15 September 2023. A total of 28 community and 4 public authority submissions were received.

Over half the submissions support the Planning Proposal, citing that the proposed amendments would assist protect and conserve existing vegetation and bushland within the Study Area and promote more appropriate development of existing residential lots in the Study Area.

Concerns raised in submissions include impacts on property value and development potential, minimum subdivision lot size, and study area boundaries. The matters raised are addressed in this report and no changes the Planning Proposal are recommended.

It is recommended that Council endorse the Byles Creek Planning Proposal for finalisation and approve the amendments to the Hornsby DCP attached to Director's Report No. PC27/23.



#### **RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Manager of Strategic Land Use Planning – Katherine Vickery - who can be contacted on 9847 6744.

KATHERINE VICKERY  
Manager - Strategic Landuse Planning  
Planning and Compliance Division

JAMES FARRINGTON  
Director - Planning and Compliance  
Planning and Compliance Division

#### **Attachments:**

1.  Byles Creek Planning Proposal June 2023
2.  Draft Byles Creek HDCP Amendments

File Reference: PP/4/2022  
Document Number: D08742814