



# **BUSINESS PAPER**

## **GENERAL MEETING**

**Wednesday 10 May 2023  
at 6:30PM**



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#### **4 REPORT ON SUBMISSIONS - HOUSEKEEPING DEVELOPMENT CONTROL PLAN AMENDMENTS**

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##### **EXECUTIVE SUMMARY**

- The Hornsby Development Control Plan undergoes routine review, resulting in housekeeping amendments to improve clarity and respond to changes in policy.
- At its meeting on 9 November 2023, Council resolved to exhibit draft housekeeping amendments to the Hornsby Development Control Plan for a period of 28 days.
- The housekeeping amendments involve implementing Hornsby Employment Land Study recommendations, clarifying the intent of minimum lot widths for battle-axe subdivision controls, correction of rear setback requirements for residential subdivisions and aligning rural secondary dwelling controls with the Hornsby Local Environmental Plan 2013.
- The amendments were exhibited from 1 December 2022 to 31 January 2023, extended over the holiday period.
- One community submission was received. No changes to the exhibited housekeeping amendments are recommended in response to the submission.
- Following exhibition, minor post-exhibition amendments have been identified that would improve the interpretation of development controls and correct referencing of environmental planning instruments. These amendments are administrative in nature and do not require re-exhibition.
- It is recommended that Council approve the draft amendments to the Hornsby Development Control Plan as amended after exhibition and publish the amended DCP on Council's website.

##### **RECOMMENDATION**

###### **THAT:**

1. Council approve the draft amendments to the Hornsby Development Control Plan 2013, as attached to Director's Report No. PC6/23.
2. Notification of the approval of the amendments be published on Council's website.
3. The submitter be advised of Council's decision.

## PURPOSE

The purpose of this Report is to address matters raised in the submission received during the exhibition of the draft Hornsby Development Control Plan 2013 (Hornsby DCP) housekeeping amendments and to outline additional post-exhibition administrative amendments recommended for inclusion in the DCP.

## BACKGROUND

The Hornsby Development Control Plan undergoes routine review, resulting in housekeeping amendments to improve clarity and respond to changes in policy.

On 9 November 2022, Council considered Director's Report No. PC22/22 seeking endorsement to exhibit draft housekeeping amendments to the Hornsby DCP that would, in summary:

- Implement recommendations of the Hornsby Employment Land Study and State Government Employment Zone Reform.
- Clarify the minimum lot width requirement for residential battle-axe allotments.
- Clarify the rear boundary setback requirement for building envelopes.
- Correct the floor area control for secondary dwellings in rural areas.

Council resolved that:

1. *The draft housekeeping amendments to the Hornsby Development Control Plan 2013 attached to Director's Report No. PC22/22 be placed on public exhibition for a period of 28 days.*
2. *Following exhibition, a Councillor Briefing be conducted to discuss the implications of progressing the draft amendments and outline issues raised in any submissions.*
3. *A report on submissions be presented to Council for consideration after the Briefing with Councillors.*

In accordance with Council's resolution, the draft DCP amendments were exhibited from 1 December 2022 to 31 January 2023. This Council report addresses the submission received during the public exhibition.

## DISCUSSION

The draft DCP amendments were exhibited from 1 December 2022 to 31 January 2023 via Council's 'Your Say Hornsby' website. One submission was received from the Beecroft Cheltenham Civic Trust (BCCT). This report addresses the submission received and outlines post-exhibition minor amendments.

### 1. Submission

The submission from the BCCT supports the need to correct ambiguity and consistency of development controls. The submission questions the adequacy of the current 3 metre setback for low-density residential development. The submission comments that new dwellings can be perceived as oversized and bulky, particularly on battle-axe allotments. The Trust asks whether a 5 metre setback should be considered.

### Comment

The purpose of the proposed DCP amendment to correct Table 6.2(c) 'Minimum Boundary Setbacks' is to align it with Figure 6.2(c) and Table 3.1.2(a), which have consistently prescribed a 3 metre

minimum rear boundary setback for single storey dwellings since adoption in 2012. This control aligns with complying development requirements.

The Hornsby DCP includes controls that manage the bulk and scale of proposed dwelling houses, which operate in conjunction with setback controls. These include controls for building height, floor area, site coverage, landscaping and privacy which all influence the design of a dwelling house and must be considered by an applicant and Council.

Of note, Council's existing controls require that only a single storey building element can be built to a 3 metre setback from the rear boundary. Two storey building elements require an 8 metre setback.

Changing the Hornsby DCP rear setback would only apply to development applications, potentially making complying development a more desirable pathway for development within the low-density residential zone. This may result in Council having less regulatory control over future residential development in Hornsby Shire.

Overall, the supporting controls of Part 3 'Residential' of the Hornsby DCP provide the outcomes recommended by the submission, without encouraging residents to pursue complying development pathways.

### **Recommendation**

That no changes be made to the exhibited draft Hornsby DCP housekeeping amendments in response to the submission questioning rear setbacks for dwelling houses.

## **2. Post-Exhibition Amendments**

Additional amendments to a diagram in the subdivision section and references to State Environmental Planning Policies throughout the Hornsby DCP have been identified and it is recommended that these be endorsed as part of the subject housekeeping amendments. The amendments are summarised below and are further detailed in the attachment to this report.

### **Setbacks on battle-axe lots**

Figure 6.2(d) 'Setbacks on battle-axe lots' of the DCP is intended to illustrate the boundary setback requirements for a battle-axe allotment. The placement of the 'side boundary' label on the allotment facing the street has the potential to result in confusion.

It is recommended that the Figure be amended by moving the 'side boundary' label to within the boundaries of the battle-axe allotment. This would clarify the intent of the corresponding prescriptive measure 6.2.1(i) which states that "*for a site that is a battle-axe lot, the setback on the opposite side of the lot to the rear setback, is taken to be a side setback (refer to Figure 6.2(d))*".

Figure 6.2(d) is repeated as Figure 3.1(d) of the DCP and therefore should also be changed. The amendment to the labels clarifies the application of Council's current controls and therefore, does not require re-exhibition.

### **References to Environmental Planning Instruments**

The amendments placed on public exhibition include minor reference updates relating to legislation that has changed during the life of the Hornsby DCP. Further minor updates and corrections relating to the *State Environmental Planning Policy (Transport and Infrastructure) 2021* have been identified during the public exhibition process. Updates to the references are administrative and informational in nature and do not require re-exhibition.

## CONSULTATION

In accordance with the consultation strategy outlined in Director's Report No. PC22/22, the draft DCP amendments were exhibited from 1 December 2022 to 31 January 2023 through advertisement on Council's 'Your Say Hornsby' website. One community submission was received and is addressed in this report.

The City of Parramatta was notified of the draft amendments prior to, and at commencement of, the exhibition and acknowledged was received that the draft amendments only apply to the Hornsby LGA and do not have policy implications to land within the Parramatta LGA.

## BUDGET

There are no budgetary implications associated with this Report.

## POLICY

The proposed housekeeping amendments to the Hornsby DCP aim to implement recommendations of the Hornsby Employment Land Study and State Government Employment Zone Reform, to clarify the intent of urban subdivision controls and to achieve consistency with the Hornsby LEP.

Further administrative changes have been made to the exhibited version of the DCP amendments. The amendments are minor in nature and do not warrant further exhibition in accordance with Section 14(1)(b) of the *Environmental Planning and Assessment Regulation 2021* (EP&A Reg) which states that Council, after exhibition and reviewing submissions, may approve a plan with such alterations as it considers appropriate.

Subject to Council's endorsement, the draft amendments would be incorporated into the Hornsby DCP and come into force once published on Council's website.

## CONCLUSION

Amendments to the Hornsby DCP were exhibited between 1 December 2022 and 31 January 2023 to implement some of the recommendations within the Hornsby Employment Land Study, to clarify the intent of urban subdivision controls and to achieve consistency with the Hornsby LEP. Following exhibition, administrative post-exhibition amendments have been made to improve the interpretation of development controls and to correct referencing issues.

It is recommended that Council approve the draft DCP amendments as attached to this report.


## 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.

JAMES FARRINGTON

Director - Planning and Compliance  
Planning and Compliance Division

**Attachments:**

1.  HDCP Housekeeping Amendments for Finalisation May 2023

File Reference: F2013/00498

Document Number: D08611283

**ITEM 4**