

Appendix A

Executive Managers Report No PLN89/09 and Council Minutes

10 PLN89/09 Annual Amendments Planning Proposal and Development Control Plan Amendments

(F2009/00758)

RESOLVED ON THE MOTION OF COUNCILLOR RUSSELL, seconded by COUNCILLOR BROWNE,

THAT:

1. Council endorse progression of the Planning Proposal attached to Executive Manager's Report No. PLN89/09 to:
 - 1.1 rezone and permit strata subdivision at property No. 218 Brooklyn Road, Brooklyn;
 - 1.2 update the listing of heritage items in accordance with the recommendations of *Heritage Review State 4* and *East Epping Heritage Review*; and
 - 1.3 implement the recommendations of the *Hornsby West Side Conservation Area Review* with the exception of the rezoning of the precinct to Residential AS (low density - sensitive lands).
2. Council forward the Planning Proposal to the Minister of Planning seeking "approval" to progress the preparation of the draft LEP in accordance with Section 56(1) of the *Environmental and Planning Assessment Act 1979*.
3. Should the Minister determine under Section 56(2) of the *Environmental Planning and Assessment Act, 1979*, that the matter may proceed without significant amendment to the Proposal, Council publicly exhibit the Planning Proposal in accordance with the Minister's determination.
4. The draft amendments to the *Heritage, Dwelling-House, Residential Subdivision, Low Density Multi-Unit Housing, Medium Density Multi-Unit Housing, Medium/High Density Multi-Unit Housing, Dural Village Centre, River Settlements, Rural Lands and Extractive Industries Development Control Plans* as outlined in Executive Manager's Report No. PLN89/09, be exhibited for 28 days with the exhibition of the Planning Proposal.
5. Following the exhibition, a report be prepared for Council's consideration on submissions received.

FOR: COUNCILLORS BERMAN, BROWNE, CHOPRA, EVANS,
MARTIN, MILLS, RUSSELL AND SMART

AGAINST: NIL

10 ANNUAL AMENDMENTS PLANNING PROPOSAL AND DEVELOPMENT CONTROL PLAN AMENDMENTS

EXECUTIVE SUMMARY

The Director-General of the Department of Planning (DOP) has encouraged councils to prepare only one amendment, or a limited number of housekeeping amendments, to their existing environmental planning instruments each year. Council's Strategic Planning Programme includes the preparation of an annual Amendments Local Environmental Plan (LEP).

In July 2009, the State Government announced changes to the way that LEPs are progressed. A new system, known as the "gateway plan-making process", has been established. The gateway process has been introduced to assist meet the Government's target of a 50% overall reduction in the time taken to produce LEPs and to allow the steps in the system to be tailored to the complexity of individual LEPs. The new gateway process involves the preparation of a planning proposal for submission to the DOP.

Over the past year, Council has identified planning anomalies to be rectified and minor amendments to be made, to the *Hornsby Shire Local Environmental Plan (HSLEP) 1994* as part of the annual Amendments LEP. This report presents a planning proposal to rezone various lands and implement the recommendations of *Heritage Review Stage 4*, *East Epping Heritage Review* and *Hornsby West Side Conservation Area Review*.

It is recommended that the Planning Proposal be endorsed for the purpose of seeking a "gateway" determination from the DOP to progress the preparation of Council's 2009 Annual Amendments Planning Proposal. In anticipation of the DOP determining that the matter may proceed, the Planning Proposal should also be endorsed for public exhibition.

PURPOSE/OBJECTIVE

The purpose of this report is to present a Planning Proposal that seeks to rezone lands, address planning anomalies and make minor amendments to the *HSLEP*.

BACKGROUND

The Director-General of the DOP, in a letter to all councils in May 2006, advised that the Department and councils have limited resources available for the progression of amending draft LEPs whilst preparing their new comprehensive LEPs. Councils are encouraged to prepare only one amendment, or a limited number of amendments, to their existing environmental planning instruments each year where councils need to rectify planning anomalies or make minor amendments to existing LEPs.

The Strategic Planning Programme includes the preparation of an Amendments LEP and over the past year, Council has identified a number of amendments to the *HSLEP* to be progressed as part of the LEP.

In July 2009, the State Government announced changes to the way that LEPs are progressed. A new system, known as the “gateway plan-making process”, has been established. The gateway process has been introduced to assist meet the Government’s target of a 50% overall reduction in the time taken to produce LEPs and to allow the steps in the system to be tailored to the complexity of individual LEPs. The new gateway process involves the preparation of a planning proposal for submission to the DOP.

This report presents a 2009 Annual Amendments Planning Proposal explaining the effect of, and justification for, the Proposal and also containing a consultation strategy.

DISCUSSION

This report discusses the planning amendments that comprise this year’s Annual Amendments Planning Proposal, namely amendments to:

- ☐ ☐ ☐ ☐ ☐ rezone and permit strata subdivision at property No. 218 Brooklyn Road, Brooklyn;
- ☐ ☐ ☐ ☐ ☐ update the listing of heritage items generally in accordance with the recommendations of *Heritage Review Stage 4* and the *East Epping Heritage Review*; and
- ☐ ☐ ☐ ☐ ☐ implement the recommendations of the *Hornsby West Side Conservation Area Review* by expanding the residential component of the existing Conservation Area.

The report also addresses statutory considerations and provides recommendations, should Council resolve to progress the Planning Proposal.

Property No. 218 Brooklyn Road, Brooklyn

At its meeting on 7 October 2009, Council considered Executive Manager’s Report No. PLN78/09 presenting a request to prepare a draft LEP to permit the strata subdivision of an existing multi-unit housing development. The report also presented a review of the zoning history of the site which indicates that the two small sections of Business A (General) zoned land at the western end of the site are an anomaly and should be rezoned Residential A (Low Density) to reflect the primary zoning of the site. Council resolved that:

1. *Amendments to the Hornsby Shire Local Environmental Plan 1994 to enable strata subdivision and correct a zoning anomaly at property No. 218 Brooklyn Road, Brooklyn be incorporated in Council’s Annual Amending Planning Proposal.*

2. *Prior to forwarding the Planning Proposal to the Department of Planning for gazettal, Council's Compliance Section ensure that the car parking works approved as part of Development Consent No. 2482/2002 have been undertaken.*

In accordance with Part 1 of Council's resolution, the Planning Proposal seeks to enable the strata subdivision of the existing multi-unit development by providing an exception under Clause 22 of the *HSLEP*. The Planning Proposal also seeks to rezone areas of the property zoned Business A (General) to Residential A (Low Density) under the *HSLEP*.

In accordance with Part 2 of Council's resolution, Council's Compliance Team has directed the owner of the property to comply with the terms of the multi-unit housing development consent and provide on-site parking.

Heritage Review Stage 4

At its meeting on 3 June 2009, Council considered Executive Manager's Report No. PLN22/09 presenting a review of submissions and made recommendations in relation to the progression of the *Hornsby Shire Heritage Review Stage 4*. *Heritage Review Stage 4* provides a review of existing heritage listed trees and other items proposed for inclusion or deletion from the heritage list. Council resolved that:

Part A

Council endorse the recommendations of Executive Manager's Report No. PLN22/09 to include, remove and amend items on the heritage list and progress as part of an Annual Amending LEP, with the exception of Property No. 5 Chilcott Road, Berrilee – former Berrilee Public School (Identification No. B9).

Part B

Council officers undertake further considerations regarding the recommendation in respect of property No. 5 Chilcott Road, Berrilee – former Berrilee Public School (Identification No. B9) and prepare a report for Council's consideration at the 1 July 2009 Planning Meeting.

At its meeting on 1 July 2009, Council considered Executive Manager's Report No. PLN52/09 presenting further information concerning the proposed listing of No. 5 Chilcott Road, Berrilee as required by Part B of Council resolution. Council resolved (in part) not to progress the heritage listing of the former school building.

The endorsed heritage list includes property No. 17 Dorset Street, Epping. At its meeting on 7 September 2009, the Hornsby Shire Heritage Advisory Committee discussed the status of the proposed listing of No. 17 Dorset Street, Epping in its consideration of Development Application No. 915/2009 for the demolition of the existing dwelling-house. The Committee noted that the house is a proposed item, but does not constitute a draft heritage item and as such can not be considered under Section 79C of the *Environmental Planning and Assessment Act*. Development Application No. 915/2009 for the proposed demolition of the dwelling was approved

on 2 October 2009. Accordingly, it is recommended that the proposed listing of the property not be progressed.

The Planning Proposal proposes the deletion of thirty-two heritage items, comprising twenty-six tree listings and seven built/cultural items. Fifteen additional heritage items, comprising one tree listing and fourteen built/cultural items are recommended for inclusion on Council's heritage list. Eight existing heritage items are recommended for amendment. The Planning Proposal details the proposed listings, deletions and amendments (copy attached).

East Epping Heritage Review

At its meeting on 7 November 2001, Council considered Executive Manager's Report No. PLN346/01 concerning the preparation of a draft LEP and draft DCP amendments to implement the recommendations of the *East Epping Conservation Evaluation and Review Study* and the *East Epping Heritage Review*. Council resolved (in part) to progress the draft LEP to:

- 1.1 *include an additional 14 proposed heritage items in Schedule D – Heritage Items; and*
- 1.2 *include two proposed Heritage Conservation Areas in Schedule E - Heritage Conservation Areas;*

A draft LEP (Amendment No. 76) for the establishment of the East Epping and Essex Street Heritage Conservation Areas and the nomination of 14 properties for heritage listing, was forwarded to the Department on 22 January 2003.

In 2004, the DOP advised that the draft LEP would be unlikely to be progressed due to the perceived conflict between Heritage Conservation Areas and urban consolidation principles, particularly in view of the forthcoming *Epping Town Centre Study*. In March 2009, representatives of the Department advised Council to progress the 14 properties for heritage listing as part of an Amendments LEP. Council at its meeting on 3 June 2009 considered Executive Manager's Report No. PLN22/09 and resolved to progress the proposed *East Epping Review* listings as part of the Annual Amending LEP.

The *East Epping Review* recommends the listing of Nos. 5 and 41 Norfolk Road, Epping. Further information concerning the historical significance of the property has since been reviewed. In 1999, development consent was granted in respect of Nos. 3, 5, and 7 Norfolk Road, for demolition of existing cottages and ancillary structures. The work has subsequently been completed in accordance with the consent and the dwelling at No 3. Norfolk Road demolished. Accordingly, it is recommended that the proposed listing of property No. 3 Norfolk Road not be progressed.

The statement of heritage significance for No. 41 Norfolk Road, identifies that the property is worthy of listing because it represents:

“... a fine example of the Federation Bungalow style of architecture, clearly demonstrating particular characteristics of the style, including large roof planes, a prominent gable verge, face brickwork, and sparingly decorated timberwork. The detailing and sedate composition of the house contribute to its architectural presence in the streetscape.”

In 1998, the Land and Environment Court approved Development Application No. 388/1998 for alterations and additions to property No. 41 Norfolk Road, Epping. The work has subsequently been completed, including significant additions to the front facade of the dwelling. The heritage values of the property have been detrimentally affected. Accordingly, it is recommended that the heritage listing not be progressed.

Accordingly, the Planning Proposal has been prepared to progress twelve of the proposed items recommended by the *East Epping Review*.

Hornsby West Side Conservation Area Review

The proposed Mount Errington Heritage Conservation Area represents an expansion of the residential component of the existing Hornsby West Side Heritage Conservation Area, which is based on the 1896 Mount Errington subdivision. *The Hornsby West Side Heritage Conservation Area Review* notes that the built character of the area is predominately residential, typified by detached houses well spaced on separate lots. Most of the houses of the original subdivision have designs dating from the Federation and Inter-War periods. In general, the housing constructed prior to 1960 has features that unify the character of the area and contribute to the heritage fabric for which the area is significant.

The *Review* recommends that the boundaries of the Mount Errington Precinct be adjusted to include all residential properties that contribute to the heritage significance of the Hornsby West Side Conservation Area. The adjustment of the boundaries is based on the original 1886 and 1897 subdivision surveys.

The *Review* notes that any future development within the boundaries and in the vicinity of a Heritage Conservation Area should be managed with appropriate planning controls to retain the elements that make the area significant and enhance its character and visual qualities. Accordingly, the report recommends a number of conservation management strategies to guide future development of the area to retain and enhance the heritage significance and streetscape qualities. The conservation management strategy elements are summarised below.

Heritage Conservation Area: The *Review* recommends the retention of the Mount Errington precinct as part of the current Hornsby West Side Heritage Conservation Area. To assist identify the three precincts that form the Hornsby West Side Heritage Conservation Area, the *Review* recommends that the precincts should be individually identified as follows:

- Mount Errington Precinct (original subdivision);
- Pretoria Parade Precinct (the residential area surrounding Pretoria Parade); and
- Peat's Ferry Road Precinct (the civic and commercial area).

The *Review* recommends that the areas should be re-named in the *HSLEP* and *Heritage DCP*.

Boundaries of the Heritage Conservation Area: The *Review* recommends that the boundaries of the Mount Errington Precinct should be adjusted to include properties and areas that contribute to the heritage significance of the Hornsby West Side Heritage Conservation Area. The adjustment of the boundaries is based on the boundaries of the original 1886 and 1897 subdivision surveys. The *Review* does not include an analysis of the Conservation Area as it relates to the commercial area and therefore, does not include any recommendations in relation to the significance or boundaries of the Peat's Ferry Road Precinct.

Statement of Significance: The *Review* recommends that the statement of significance contained in the *Review* (copy attached) should be appended to the current inventory sheet for the Hornsby West Side Heritage Conservation Area. The statement should also complement the proposed planning controls to assist in the assessment of the impact of development in the area.

Character Statement: The *Review* includes a detailed character statement for the Mount Errington Precinct of the Hornsby West Side Heritage Conservation Area (copy attached). The *Review* recommends that the statement should be included in Council's *Heritage DCP*.

Contributing Features: The *Review* recommends that Council's *Heritage DCP* should be amended to include guidelines identifying features that contribute to the heritage significance and streetscape qualities of the area. These features should be retained and enhanced on all properties within the Heritage Conservation Area. This includes both existing built and landscape elements and any new development that occurs within the area.

The *Review* identifies contributing features relating to setting, lot sizes, density, setbacks, building design and landscape features. The *Review* notes that the identification of these contributing features in the *Heritage DCP* will encourage good design and protect the significance of the Heritage Conservation Area.

At its meeting on 5 November 2003, Council considered Executive Manager's Report No. PLN361/03 and resolved to forward the LEP for the Hornsby West Side Conservation Area to the DOP for gazettal. Council also resolved that the draft amendments to the *Heritage DCP* for the Mount Errington Heritage Conservation Area, be adopted subject to additional minor amendments.

Draft LEP (Amendment No. 84) for the establishment of the Mount Errington Heritage Conservation Area was forwarded to the DOP for gazettal on 23 April 2004. In 2004, the Department indicated to Council its unwillingness to gazette draft LEPs relating to heritage conservation areas until the Department had undertaken a review of heritage conservation areas and determined its position in consultation with the then NSW Heritage Office. In 2008, the Department advised Council that it should progress the draft LEPs as part of Council's Comprehensive LEP. In August 2009, the Department advised that it was prioritising the delivery of sixty seven councils' new *Standard Instrument* based LEPs by 2011. Council is not on the priority list.

Accordingly, the DOP advised that the amendments to the Heritage Conservation Area should be progressed using the new gateway process.

The Planning Proposal has been prepared to expand the boundaries of the existing Hornsby West Side Conservation Area to include residential properties that contribute to the heritage significance of the *Hornsby West Side Conservation Area*. The Planning Proposal also includes the rezoning of the expanded precinct to Residential AS (Low Density – Sensitive Lands), which has a corresponding minimum allotment size of 600m², to reflect and maintain the existing subdivision pattern and landscape characteristics of the area.

Associated draft DCP amendments are also proposed to be exhibited with the draft LEP to update the list of heritage conservation areas contained in relevant DCPs and reflect the proposed amendments supported by Council in 2003.

Draft Development Control Plan Amendments

Following a gateway determination by the DOP for the Planning Proposal to proceed, the draft DCP Amendments would be exhibited concurrently. In accordance with the *EP&A Act*, draft DCP amendments are required to be exhibited for a minimum period of 28 days for public input following endorsement by Council.

Following the exhibition, an assessment of submissions would be undertaken and a further report would be presented to Council for its consideration detailing any recommended amendments to the draft DCP amendments.

The DCP amendments would come into force upon notice being placed in local papers following gazettal of the LEP amendments.

CONSULTATION

A Guide to Preparing Local Environmental Plans has been prepared by the DOP to assist councils in preparing planning proposals and LEPs. In accordance with the *Guide*, the planning proposal is considered to be “low impact”, in that:

- a) it is consistent with the pattern of surrounding land uses;
- b) is consistent with the strategic planning framework;
- c) presents no issues with regard to infrastructure servicing;
- d) is not a principal LEP; and
- e) does not reclassify public land.

Being “low impact” the *Guidelines* recommend exhibition for a period of 14 days. However, associated draft DCP amendments are also proposed to be exhibited with the draft LEP. In accordance with the *Environmental Planning and Assessment Act*, draft DCP amendments are required to be exhibited for a minimum period of 28 days.

Accordingly, it is proposed to publicly exhibit the Planning Proposal for a period of 28 days. A consultation strategy relevant to the public exhibition of the draft LEP has been prepared as part of the Planning Proposal for endorsement by the DOP.

Following the exhibition period, a report on submissions will be presented to Council for its consideration.

PLANNING REFORMS

In July 2009, the State Government announced changes to the way that LEPs are progressed. A new system, known as the “gateway plan-making process”, has been established. The gateway process has been introduced to assist meet the Government’s target of a 50% overall reduction in the time taken to produce LEPs and to allow the steps in the system to be tailored to the complexity of individual LEPs. The new gateway process involves the following steps:

Planning Proposal — Council is responsible for the preparation of a planning proposal for submission to the DOP, which explains the effect of, and justification for, the proposal.

Gateway — The Minister (or delegate) determines whether the planning proposal is to proceed. This gateway acts as a checkpoint to ensure that the proposal is justified before further studies are done and resources allocated to the preparation of a plan. If necessary, the proposal is amended. A community consultation process is also determined, including consultation with relevant public authorities.

Community consultation — The proposal is publicly exhibited (generally low impact proposals for 14 days, others for 28 days).

Assessment – Council considers public submissions and the proposal is amended as necessary. Parliamentary Counsel then prepares a draft LEP.

Decision – With the Minister’s (or delegate’s) approval the plan becomes law and is published on the [NSW legislation website](#).

STATUTORY CONSIDERATIONS

As part of Council’s consideration of amendments to LEPs, Council is required to consider the relevance of any State Environmental Planning Policy (SEPP) or Ministerial Direction under Section 117 of the *Environmental Planning and Assessment Act, 1979*. The proposal is not contrary to any SEPP or relevant Section 117 Directions. An assessment of relevant SEPP and Section 117 Directions is contained in the Planning Proposal.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council’s strategic themes.

A Triple Bottom Line summary was provided in respect of *Heritage Review Stage 4* in the previous report to Council, Executive Manager’s Report No. PLN32/08, considered by Council on 20 February 2008. A Triple Bottom Line summary was provided in respect of property No. 218 Brooklyn Road, Brooklyn in the previous

report to Council, Executive Manager's Report No. PLN78/09, considered by Council on 7 October 2008.

The following Triple Bottom Line summary addresses the strategic themes within Council's Management Plan in respect of the *West Hornsby Conservation Area* and *East Epping Heritage Review*.

- ☐☐☐☐ **Working with our community:** A consultation strategy has been prepared as part of the Planning Proposal for endorsement by the DOP. It is proposed that public exhibition material will be readily accessible and understandable to all sectors of the community by providing a number of locations and means of communication. The community will be able to obtain hard copy information from Council or download information from Council or the DOP's website.
- ☐☐☐ **Conserving our natural environment:** The Proposal is part of an on-going review of heritage items and conservation areas to assist conserve identified heritage items within the Shire. Council's heritage provisions aim to encourage the ongoing conservation of heritage items.
- ☐☐☐ **Contributing to community development through sustainable facilities and services:** The Proposal does not relate directly to the provision of services and facilities. Accordingly, no adverse impact on opportunities for community development would be expected.
- ☐☐☐ **Fulfilling our community's vision in planning for the future of the Shire:** The Proposal would assist in promoting the conservation of the important heritage values within the Shire.
- ☐☐☐ **Supporting our diverse economy:** The Proposal aims to assist in the conservation of important character elements and heritage values which enhance the attractiveness of the Shire as a place to live and work.
- ☐☐☐ **Maintaining sound corporate and financial management:** The Proposal does not relate directly to corporate and financial management. Accordingly, no adverse impact on management principles would be expected.
- ☐☐☐ **Other sustainability considerations:** The Proposal would not have an adverse impact on the environment of the Shire.

CONCLUSION

Over the past year, Council has identified a number of planning anomalies to be rectified, and minor amendments to be made, to the *HSLEP* as part of the annual Amendments LEP. This report presents a Planning Proposal to rezone various lands and implement the recommendations of the *Heritage Review Stage 4, East Epping Heritage Review* and *Hornsby West Side Conservation Area Review*.

The Planning Proposal should be endorsed for the purposes of seeking "gateway" approval from the DOP to progress the draft LEP pursuant to Section 56(1) of the *Environmental Planning and Assessment (EP&A) Act, 1979*. In anticipation of the

DOP issuing a determination under Section 56(2) that the Planning Proposal may proceed, the Planning Proposal should also be endorsed for public exhibition.

RECOMMENDATION

THAT:

1. Council endorse progression of the Planning Proposal attached to Executive Manager's Report No. PLN89/09 to:
 - 1.1 rezone and permit strata subdivision at property No. 218 Brooklyn Road, Brooklyn;
 - 1.2 update the listing of heritage items in accordance with the recommendations of *Heritage Review State 4* and *East Epping Heritage Review*; and
 - 1.3 implement the recommendations of the *Hornsby West Side Conservation Area Review*.
2. Council forward the Planning Proposal to the Minister of Planning seeking "approval" to progress the preparation of the draft LEP in accordance with Section 56(1) of the *Environmental and Planning Assessment Act 1979*.
3. Should the Minister determine under Section 56(2) of the *Environmental Planning and Assessment Act, 1979*, that the matter may proceed without significant amendment to the Proposal, Council publicly exhibit the Planning Proposal in accordance with the Minister's determination.
4. The draft amendments to the *Heritage, Dwelling-House, Residential Subdivision, Low Density Multi-Unit Housing, Medium Density Multi-Unit Housing, Medium/High Density Multi-Unit Housing, Dural Village Centre, River Settlements, Rural Lands and Extractive Industries Development Control Plans* as outlined in Executive Manager's Report No. PLN89/09, be exhibited for 28 days with the exhibition of the Planning Proposal.
5. Following the exhibition, a report on submissions be presented to Council.

SCOTT PHILLIPS
Executive Manager

JAMES FARRINGTON
Manager - Town Planning Services

Planning Division

Planning Division

Attachments:

1. [View](#) 2009 Annual Amendments Planning Proposal
2. [View](#) DCP Amendments

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