

DATE OF DETERMINATION	4 November 2020
PANEL MEMBERS	Peter Debnam (Chair), Julie Savet Ward, Sue Francis, David White, Ross Walker
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 4 November 2020, opened at 1.30pm and closed at 2.37pm.

MATTER DETERMINED

2019SNH025 – Hornsby – DA101/2019 at 1X Quarry Road, 14B Dural Street, 203X Peats Ferry Road, 1X Bridge Road, 82X-98X Manor Road, 36X-38X Summers Avenue Hornsby for the redevelopment of Hornsby Quarry (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the reasons outlined below and in the Independent Assessment Reports.

The proposal is for rehabilitation of the existing Hornsby quarry involving bulk earthworks (and associated civil works including construction of access tracks, drainage and retaining walls), site remediation, tree removal, revegetation work and site rehabilitation.

The Panel originally considered the Development Application at a public meeting 6 May 2020 and acknowledged the application provided substantial information on the proposed rehabilitation of the Hornsby Quarry and had considerable merit in laying the groundwork for a unique and major recreational area in the Hornsby Shire. However, at that time the Panel noted key issues of significant public interest were sufficiently unresolved that the Assessment Report did not provide the Panel or the public with certainty in the outcomes.

Consequently, the Panel deferred the application so the Applicant could provide further information (as detailed below) and a Supplementary Report could then be considered by the community and the Panel.

1. Complete the Biodiversity Offset Package, Vegetation Management Plan, Habitat Creation and Enhancement Plan, to the level of detail described in the Deferred Commencement Conditions in the Assessment Report, and submit those documents for public exhibition and finalisation;
2. Provide a definitive plan outlining protection measures, including the extent and scheduling of works, for the maximum possible buffer zone around the Powerful Owl breeding pair’s roosting tree in the Northern Spoil Mound, and submit this plan for public exhibition and finalisation;

3. Provide additional information regarding staging of the project. The Staging Plan should address works, stabilisation, rehabilitation and revegetation required in each stage as well as how each stage relates to other stages across the site; and
4. Provide further information on the Volcanic Diatreme located on the eastern face of the quarry void. The Diatreme must be clearly identified on relevant plans and cross sections and the Panel needs advice from the Applicant regarding how the Diatreme is incorporated in the proposal in terms of the level of fill, treatment, rehabilitation and protection whilst appropriately reflecting its geological significance. The Panel recommends this work be undertaken in consultation with geological societies who have the appropriate expertise in this field.
5. Make any subsequent changes to the proposed rehabilitation of the Hornsby Quarry as a result of the above.

Over the last six months, the Applicant, Independent Assessor, expert advisers and the community have considered each of the above deferral issues, provided appropriate further information and as a result a comprehensive Supplementary Report has been compiled and considered by the Panel.

Assessment of the application throughout this process was undertaken against the relevant planning framework and Council's technical departments considered various design matters. In addition, separate expert advice was sought in relation to heritage, geotechnical and ecological considerations.

The Panel now concurs with the Independent Assessor that the additional information provided and the Supplementary Report, when combined with the original Assessment Report, provide a sound basis on which to proceed with the project. Additionally, in response to community concerns expressed during the second public meeting, further amendments were made to strengthen the conditions of consent.

The challenge in planning and assessing such a large complex project has been to balance competing issues to produce outcomes clearly in the community interest. The Panel considers the Applicant and Independent Assessor have successfully managed those competing issues and approval of the project with conditions as amended is in the public interest.

CONDITIONS

The development application was approved subject to the conditions in the Independent Assessment Report with the following amendments:

- The Deferred Commencement Condition in Schedule 1 Condition A is to become an operational condition and has been reworded to require consultation with the Geological Society of Australia. The Archaeological Research Design will be required to be finalised prior to issue of the first Construction Certificate or prior to commencement of any works on site, whichever occurs first.

The requirement for the preparation of the Archaeological Research Design is now condition 13, and to read as follows:

Prior to issue of the first Construction Certificate or prior to commencement of works, whichever occurs first, an Archaeological Research Design is to be prepared by a qualified archaeologist in consultation with the Geological Society of Australia to inform a program of archaeological investigation to mitigate impacts to any significant archaeological remains.

The Archaeological Research Design is to identify if any permits under Section 140, or an exception permit under Section 139 of the Heritage Act is required. If a Section 140 permit is required, this will be required to be submitted to Council.

- Condition 9(a) has been amended to read as follows:
Ensure the language in relation to the actions to be undertaken and commitments is more definitive than the terminology that has been used in the final draft version of this plan. For example, use “must” instead of “should”, where appropriate.
- Condition 13 (renumbered Condition 14) is amended require the Construction Environmental Management Plan (CEMP) to be prepared by an independent environmental consultant and to be made publicly available upon finalisation of the CEMP. Condition to read as follows:

To safeguard the public, the environment and Council’s assets, a separate Construction Environment Management Plan (CEMP) must be prepared by an independent consultant in consultation with a qualified traffic engineer, a qualified ecologist, Birdlife Australia and AQF 5 arborist, and submitted to Council’s Compliance Team at <https://www.hornsby.nsw.gov.au/property/build/applicationforms> for review and written approval prior to commencement of any works on the site.

The final CEMP is to be made available to the public upon request.

As a minimum, the CEMP must include the following

- A description of the works to be undertaken, including any staging of works.*
- A detailed description of the site, including the work zones within the site.*
- Details of the timeframes for the various stages of work, within each work zone.*
- Details of the contact information for developers, builder, private certifier and any emergency details during and outside work hours.*
- Details of induction procedures and any protocols to be implemented during the course of the project, including:*
 - Unexpected finds protocols for contaminated materials.*
 - Unexpected finds protocols for Aboriginal artefacts.*
 - Unexpected finds protocols for other heritage artefacts.*
 - Protocols for working in close association with wildlife.*
 - Protocols for managing injured wildlife.*
 - Protection of trees, including Critically Endangered Ecological Community (CEEC) vegetation, and any other flora to be retained.*

The procedures shall include details of when the induction of staff/contractors will occur. At a minimum, induction must occur whenever new staff/contractors are engaged to undertake works at the site.

- Details of how public safety will be managed throughout the course of works.*
- A communications strategy for the purposes of advising nearby or adjoining residents and building occupants/owners of the progress of the project, the nature and timing upcoming actions/works (including a timeframe for those works) and contact details of relevant personnel. As a minimum, communication should be made at least 2 weeks prior to commencement of work within each work zone or 2 weeks prior to each stage of work, as relevant.*
- Details of incident management*
- Methodologies to be implemented for managing complaints.*
- Auditing procedures to be implemented.*
- Details of the reporting hierarchy to be implemented.*
- Inspections to be undertaken, including details of personnel who will be responsible for undertaking the inspections, areas/elements (e.g. erosion and sediment controls) to be inspected, frequency of inspections.*
- Details of any rectification methodologies to be implemented following inspections.*
- Details for the processes to be implemented in response to any unexpected finds relating to site contamination. The unexpected finds protocol must include details regarding the management of unexpected finds:*
 - including ACM, at the workshop area and the fill areas and*

- ii) *the management of surface aesthetics (with regard to anthropogenic materials in soils) during removal and reshaping of spoil in the fill areas.*
- o) *Air quality management on site, including dust suppression measures during works.*
- p) *Details on the general operating procedures to manage environmental risk throughout all stages of works on the site.*
- q) *A survey plan including existing survey marks, vehicle entry/ies, surrounding pedestrian footpaths and hoarding (fencing) locations to ensure Council assets are maintained and protected throughout the development.*
- r) *A Noise and Vibration Management Plan including the following:*
 - i) *A description of the works likely to generate noise and/or vibration, including a description of the equipment to be used, an estimate of duration of the noise and/or vibration creating activity and a measurement of noise/vibration generation.*
 - ii) *Methods to be implemented for each construction work phase to minimise noise and vibration impacts, including whether any further noise modelling is required.*
 - iii) *Details of methodologies to be implemented to minimise noise impacts, inclusive of respite periods for high noise activities such as rock breaking, ripping and sawing.*
 - iv) *Details of the monitoring program to be implemented for the duration of the works.*
 - v) *The Noise and Vibration Management Plan shall also address the requirements listed at Attachments A and B to the Environmental Protection Authority's General Terms of Approval dated 13 February 2020.*
 - vi) *The Noise and Vibration Management Plan shall include the mitigation measures detailed in the Table to Sections 3.1 and 3.2 of the Preliminary Construction Environmental Management Plan, Appendix K to the Response to Submissions report prepared by GHD and dated November 2019.*
- s) *A Construction Traffic Management Plan (CTMP) including the following:*
 - i) *Details of all construction equipment and vehicles being used at the same time during all stages.*
 - ii) *The CTMP shall be in accordance with all other plans submitted to Council as part of this development proposal.*
 - iii) *In order to prevent injury, accident and/or damage to property, a statement must be included within the Plan confirming that no building materials, work sheds, vehicles, machines or the like will be installed in any road reserve area without the written consent of Hornsby Shire Council.*
 - iv) *The CTMP 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.*
 - G. *Details of any temporary traffic controls to be implemented, including any temporary traffic controls used during non-working hours and those that facilitate pedestrian access and two-way traffic in the public road at all times.*
 - H. *Confirmation that a street 'scrub and dry' service will be in operation during all stages of works.*
 - I. *Details of the proposed truck haulage routes to and from the site including details of the frequency of truck movements for all stages of the development.*
 - J. *Swept path analysis for ingress and egress for all vehicles likely to be required in conjunction with all stages of works.*
 - K. *Details of the total number and size of trucks for all exportation of soil and/or other materials throughout all stages of works inclusive of remedial works, and a breakdown of total numbers of trucks for each stage of works.*
 - L. *The plan must include the location details of the licensed waste facility where excavated material required for removal will be disposed.*

- M. *The Plan must include a statement that the applicant and all employees of contractors on the site will obey any direction or notice from the Prescribed Certifying Authority or Hornsby Shire Council in order to ensure the above.*
- N. *If there is a requirement to obtain an Out of Hours permit (where not permitted by condition 47), 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.*
- t) *A Soil and Water Management Plan is to be prepared in accordance with the Landcom Blue Book (2015 edition). The Soil and Water Management Plan is to address the requirements listed in the Environmental Protection Authority's General Terms of Approval dated 13 February 2020.*
- u) *A Construction Management Site Plan, detailing:*
 - i) *The location of site sheds.*
 - ii) *The location of any site fencing.*
 - iii) *The location of vehicular entry/exit points to the site and any works zones.*
 - iv) *The plan shall include site plans for all stages of works including the location of site sheds, equipment storage, fuel storage, unloading and loading areas, concrete pump and crane locations waste and storage areas for all stages of works.*
 - v) *The location of any stockpiled materials, including stockpiling of vegetation to be processed for soil manufacture or for reuse elsewhere on the site.*
 - vi) *Details of the location of parking 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) *Details of erosion and sediment controls to be implemented.*
- v) *A Construction Waste Management Plan detailing the following:*
 - i) *Procedures for the management of waste in accordance with relevant NSW Legislation and the principles of the waste management hierarchy set out in the NSW Waste Avoidance and Resource Strategy 2014-212 (EPA, 2014a).*
 - ii) *Management of wastewater and sewerage from site office amenities/site sheds.*
 - iii) *Details of the excavation of soil and or the materials, disposal methods and authorised disposal depots that will be used for exported materials. 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.*
 - iv) *General construction waste details including construction waste skip bin locations and litter management for workers.*
- w) *A Tree Protection Plan (TPP) prepared by an AQF 5 Arborist, in consultation with a qualified ecologist, incorporating:*
 - i) *A plan identifying the location of fencing (or other suitable protection measures to be implemented) to avoid impacts to trees to be retained during construction works. The plan will also be required to identify protection of root zones of retained trees.*
 - ii) *Specifications of tree protection materials used and methods within the TPZ or SRZ.*
 - iii) *Location of dedicated material storage space on site outside the TPZs and SRZs for retained trees.*
 - iv) *Any specific protection actions as detailed in the final VMP and HCEP.*
- x) *A Heritage Management Plan is to be prepared in accordance with the recommended in the Statement of Heritage Impact prepared by Artefact (Project No. 170175, dated 22 November 2018) by a suitably qualified heritage consultant. The Heritage Management Plan is to include details of the management of heritage items on the site and in the vicinity of the site including potential damage to heritage items as a result of activities associated with the works, including but not limited to vibration impacts.*
- y) *A Post Construction Environmental Management Plan is to be prepared which addresses:*
 - i) *A program for the maintenance of erosion and sediment control measures that will be required to be maintained on site until vegetation on disturbed areas is established or disturbed areas are otherwise stabilised.*

- ii) A program for rehabilitation works in accordance with the Vegetation Management Plan and Habitat Creation and Enhancement Plan.
- iii) A program for the removal of equipment associated with the site restoration and earthworks.

- Condition 40 (renumbered Condition 41) amended to read as follows:
A biodiversity offsets package is to be prepared to offset the impact on biodiversity values as a result of the works undertaken as part of this development consent and to provide in perpetuity protection and management of offset areas. A conservation agreement covering the offset areas is to be entered into between Hornsby Shire Council and the Biodiversity Conservation Trust (BCT). The agreement with BCT must be completed within 18 months of the commencement of works relating to the development consent.





Details of the agreement with BCT and any covenant to be registered on the title of the land to which it relates must be provided to Council's Compliance Team at compliance@hornsby.nsw.gov.au within 14 days of the finalisation of the agreement with BCT.

A copy of the final conservation agreement shall be made available to the public upon request.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the public meeting. The Panel notes issues of concern included Biodiversity Offset Strategy, Seed Collection, Funding, Timeframes, Extent of Work, Contaminants, Flora & Fauna, Bike Tracks, Fauna Management during Works, Baiting, Management Plans, Planning Controls, Staging, Future Uses, Research, Diatreme and Future Uses.

The Panel considers that concerns raised by the community were adequately addressed in the assessment report, Applicant and Independent Assessor's responses during the public meeting and in the conditions as amended.

PANEL MEMBERS	
 Peter Debnam (Chair)	Julie Savet Ward
 Sue Francis	 David White
 Ross Walker (OAM)	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2019SNH025 – Hornsby – DA101/2019
2	PROPOSED DEVELOPMENT	Rehabilitation of the existing Hornsby Quarry involving bulk earthworks (and associated civil works including construction of access tracks, drainage and retaining walls), site remediation, tree removal, revegetation work and site rehabilitation.
3	STREET ADDRESS	1X Quarry Road, 14B Dural Street, 203X Peats Ferry Road, 1X Bridge Road, 82X-98X Manor Road, 36X-38X Summers Avenue Hornsby
4	APPLICANT/OWNER	Hornsby Shire Council
5	TYPE OF REGIONAL DEVELOPMENT	Designated Development
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy No. 19 - Bushland in Urban Areas ○ State Environmental Planning Policy No. 33 - Hazardous and Offensive Development ○ State Environmental Planning Policy No. 44 - Koala Habitat Protection ○ State Environmental Planning Policy No. 55 - Remediation of Land ○ State Environmental Planning Policy (Mining, Petroleum, Production and Extractive Industries) 2007 ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ○ Sydney Regional Environmental Plan No. 20 - Hawkesbury Nepean (No. 2 - 1997) ○ Hornsby Local Environmental Plan 2013 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Hornsby Development Control Plan 2013 ○ Hornsby Shire Council Section 94 Development Contributions Plan 2014 - 2024 and s7.12 Contributions Plan 2019 - 2029 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 23 April 2020 • Council supplementary report: 22 October 2020 • Written submissions during public exhibition: 605 • Verbal submissions at the public meeting 6 May 2020: <ul style="list-style-type: none"> ○ Community submissions: Joe Nicita, Mick Marr, Jan Primrose on behalf of Protecting Your Suburban Environment, Jill Green on behalf of STEP Inc, Dan Smith on behalf of SNORC MTB Club, Carol Ford on behalf of Friends of Berowa Valley, Robin Buchanan on behalf of Powerful Owl Coalition, Patricia Brown on behalf of Byles Creek Valley Union Inc, Jacquelyn Johnson on behalf of

		<p>Nature Conservation Council of NSW, John Inshaw on behalf of the Galston Residents Association, Nelson Wallish, Trudi Semeniuk, Lucy Bal, Margate Brocx, Ian Purcival, Vic Semeniuk, John French, Georgia Cameron,</p> <ul style="list-style-type: none"> ○ Council assessment officer – Ellen Robertshaw (consultant planner for council), James Farrington ○ On behalf of the applicant – Stephen Head, Bob Stephens, David Beharrell, Kirsten Crosby, Rob Rajca <ul style="list-style-type: none"> ● Written submissions from people presenting at public teleconference 6 May 2020: 12 ● Verbal submissions at the public meeting 4 November 2020: <ul style="list-style-type: none"> ○ Community submissions: Jan Primrose on behalf of Protecting Your Suburban Environment, John Inshaw on behalf of Galston Area Residents Association Inc, Jill Green on behalf of Step Inc, Robin Buchanan on behalf of the Powerful Owl Coalition, Trish Brown on behalf of Byles Creek Valley Union Inc, Joe Nicita ○ Council assessment officer – Ellen Robertshaw (consultant planner for council) ○ On behalf of the applicant – Bob Stephens
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> ● Briefing: 24 July 2019 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam, Sue Francis, Ross Walker, David White ○ <u>Council assessment staff</u>: Caroline Maeshian, Rod Pickles, Ellen Robertshaw (consultant planner for council), Cassandra Williams, Craig Clendinning, David Beharrell. ● Site inspection: 24 July 2019 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam, Sue Francis, Ross Walker, David White ○ <u>Council assessment staff</u>: Caroline Maeshian, Rod Pickles, Ellen Robertshaw (consultant planner for council), Cassandra Williams, Craig Clendinning, David Beharrell. ● Site inspection: 30 April 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Julie Savet Ward ○ <u>Council assessment staff</u>: Caroline Maeshian, Ellen Robertshaw (consultant planner for council), Bob Stephens (provided site access). ● Final briefing to discuss council’s recommendation, 6 May 2020 at 12pm. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam, Julie Savet Ward, Sue Francis, Ross Walker, David White ○ <u>Council assessment staff</u>: Caroline Maeshian, Rod Pickles, Ellen Robertshaw (consultant planner for council), James Farrington ● Final briefing to discuss council’s recommendation, 4 November 2020 at 1pm. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam, Julie Savet Ward, Sue Francis, Ross Walker, David White ○ <u>Council assessment staff</u>: Caroline Maeshian, Ellen Robertshaw (consultant planner for council)
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report