



Making a Submission to Council on a Development Application

A Guideline for Residents

February 2009

Making a submission on a development application is not difficult, but residents should be aware that there are only certain matters that can be taken into consideration.

What Council Can Consider

Council and the Land and Environment Court are bound by the *Environmental Planning and Assessment Act 1979*. Section 79c of this Act sets out the matters that can be considered in determining a development application, as relevant to the particular application. These include:

- (a) the provisions of:
 - (i) any environmental planning instrument, and
 - (ii) any draft environmental planning instrument that is current, and
 - (iii) any development control plan, and
 - (iiia) any planning agreement entered into under section 93F or draft planning agreement that a developer has offered to enter into under section 93F, and
 - (iv) the regulations (to the extent that they prescribe matters for the purpose of this paragraph)

that apply to the land to which the development application applies.

- (b) the likely impacts of that development of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for development,
- (d) any submission made in accordance with this Act or the regulations,
- (e) the public interest.

To be effective, your submission should stick to these matters. Objections should be set out clearly, succinctly and without emotion. A suggested format that you may follow is presented later in this document.

Where to Obtain Information

You may have received a letter from Council or seen a development application on Council website. For additional information to prepare your submission you may:

1. Inspect the development application and associated documents at Council office so that you understand what it entails. You have the right to do this under the *Local Government Act 1993* but you may not take away any document. You may ask for copies to be made for you of parts which you wish to take and should expect to pay any associated costs for copying. For residential dwellings, you are not entitled to inspect or obtain any documents relating to the internal details of the building.

2. Obtain or view copies of relevant planning instruments. These will include the Local Environment Plan, relevant development control plans and similar instruments all of which should be available on Council web site

www.hornsby.nsw.gov.au . If not, they can be found on www.legislation.nsw.gov.au
This will allow you to make objections to the points listed under (a) above.

3. Collect evidence to support an objection under points (b), (c) and/or (d) above. As far as possible this should be confined to the facts although matters of aesthetics will involve subjective assessment.

4. If unsure, seek advice from a professional source. It will involve some expense but will save you from making mistakes or fruitless objections.

5. Prepare your objection based on the facts you see as relevant to your situation.

6. When there are a number of residents with essentially the same points of objection, it may be more effective to prepare a common letter of objection in the form of a petition. You should talk to other residents affected by the application to see whether this option might be worth considering.

A Suggested Format.

The following sample letter shows how your objection should be set out. Not all of the examples included will be relevant to a particular development and you should include only those to which you are objecting. Setting out your objection in this way assists Council's officers in assessing your submission and the development as a whole as it directs them to the specific concerns. At all costs, avoid exaggeration and emotive language as they may reflect on your credibility and be used against you should the matter go to Court.

The General Manager
Hornsby Shire Council

Development Application no: XX/XXXX

Property: *(insert address of proposed development)*

My property at *(address)* adjoins *(or as the case may be)* this property.

I object to the proposed development on the following grounds:

- a) It does not comply with the provisions of *(environmental planning instruments and/or draft instruments and/or regulations)*. *(List each example of non-compliance, giving brief details – this may relate to access, closeness to*

boundaries, stormwater disposal and other matters covered in relevant planning instruments).

- b) It will have adverse impacts on the natural and built environment in the locality, in that *(list with brief description – for example ‘the development is out of scale to the surrounding buildings and/or the development will adversely affect mature trees on the site and/or issues of noise, interference with privacy, natural light and the like).*
- c) It will have adverse social or economic impacts on the locality *(again list with brief description if you have identified any such impacts). (Be aware that neither Council nor the Court can consider the economic viability of a proposal, only its impact on the locality).*
- d) The site is not suitable for the proposed development, in that *(set out reasons, stick to the facts and do not exaggerate)*
- e) It is not in the public interest for the development to proceed, in that *(set out reasons, stick to the facts and do not exaggerate). (Use this to include any matters not previously covered).*

I am willing to appear as a witness for Council in the event that the development is not approved and the matter goes to Court. *(You should be prepared to do this as Council will need your support if it goes to Court.)*

Yours faithfully,

(Name)

(Address)

Please Note:

This document is intended as a guide only. It is not intended to take the place of, and should not be used as a substitute for, proper legal, planning, engineering or other professional advice. If you have any doubt as to your position, you should seek advice from a person with appropriate qualifications in the relevant field. Details of such people can be obtained from the Law Society of NSW, the Planning Institute of Australia, the Institute of Engineers and other similar bodies.

The Beecroft Cheltenham Civic Trust Inc. will accept no responsibility for any loss, however arising or caused, resulting from reliance on this guideline.