

**JOINT REGIONAL PLANNING PANEL
(Sydney West Region)**

JRPP No.:	2013SYW066
Development Application No.	DA/662/2013
Description of Proposal:	Demolition of existing structures and construction of a purpose built day surgery facility
Property Description:	Lots 35 and 34 DP 262566, Nos. 361-363 Pennant Hills Road Pennant Hills
Applicant:	Dr John Napoli Pty Ltd
Owner:	Dr John Napoli Pty Ltd
Statutory Provisions:	Hornsby Shire Local Environmental Plan 1994 Business B (Special) zone
Estimated Value:	\$5,799,862
Number of submissions	1
Recommendation	Approval
Report Author:	Cassandra Williams - Team Leader, Major Applications
Instructing Officers:	James Farrington - Group Manager Rod Pickles - Manager Assessments

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

1. The application proposes the demolition of existing structures and construction of a purpose built day surgery facility.
2. The proposal exceeds the permitted floor space ratio under Clause 15 of the Hornsby Shire Local Environmental Plan 1994. The applicant has made a submission pursuant to *State Environmental Planning Policy No. 1 - Development Standards* to vary the development standard. The submission is considered well founded and is supported.
3. The proposal generally complies with the Business Lands Development Control Plan and the Pennant Hills Commercial Centre Development Control Plan with the exception of FSR and car parking.
4. One submission has been received in respect of the application.
5. It is recommended that the application be approved.

RECOMMENDATION

THAT Sydney West Region Joint Regional Planning Panel assume the concurrence of the Director-General of the Department of Planning pursuant to *State Environmental Planning Policy No. 1* and approve Development Application No. DA/662/2013 for the demolition of existing structures and construction of a purpose built day surgery facility at Lots 35 and 34 DP 262566, Nos. 361-363 Pennant Hills Road Pennant Hills subject to the conditions of consent detailed in Schedule 1 of this report.

BACKGROUND

On 6 April 2011, Council refused a development application for demolition of existing structures and erection of a McDonald's restaurant with basement car parking and drive-thru facility, associated landscape works and erection of twenty-three signs at the subject property, on the following grounds:

1. *Pursuant to the provisions of Section 79C(1)(b), it is considered that the development fails to demonstrate that it:*
 - a. *Would not result in unacceptable queuing of vehicles on Pennant Hills Road seeking to enter the site.*
 - b. *Would not result in unacceptable traffic generation on George Street within the vicinity of Pennant Hills Road having regard to the number of vehicles entering and exiting George Street.*

- c. Would not result in unacceptable impacts on the amenity of the residential neighbourhood as a result of larger vehicles and vehicles with trailers being required to park on the street in order to visit the site.*
 - d. Would not result in unacceptable impacts on the amenity of the residential neighbourhood as a result of staff being required to park cars on the street at night and on weekends.*
 - e. Provides efficient internal circulation of vehicles.*
 - f. Would not result in a conflict between on-site car parking spaces and manoeuvring areas for delivery vehicles.*
2. *Pursuant to the provisions of Section 79C(1)(c), it is considered that the site is not suitable for the development having regard to the likely traffic generated by the development, the constraints on the local road network and the lack of availability of overflow on-street car parking.*
3. *Pursuant to the provisions of Section 79C(1)(d), it is considered that the development fails to overcome the concerns raised by the Roads and Traffic Authority in respect of the impact of the development on the national highway network and the relevant concerns made by, or on behalf of neighbouring businesses and the community in respect of the impact of the development on the local road network.*

The site is currently used for commercial purposes (Pergola Land and Doors Plus) and the site was historically subject to road widening along the Pennant Hills frontage which has subsequently been acquired by the RMS and the road widening works undertaken.

THE SITE

The site comprises two allotments, Lots 35 and 34 in DP 262566 and is known as Nos. 361-363 Pennant Hills Road, Pennant Hills. The site is located on the south-eastern intersection of Pennant Hills Road and George Street.

The site has a 31.44m splayed corner frontage to Pennant Hills Road and a 35.5m secondary frontage to George Street. The site has a 38.534m south-western boundary and 38.58m rear southern boundary. The total site area is approximately 1291m².

The site slopes gradually towards the north-west with a fall of approximately 3.2m. There is an existing vehicular crossing from Pennant Hills Road to the Doors Plus commercial showroom. Vehicular access to the Pergola Land showroom is via a driveway from George Street.

The site is approximately 400m east of Pennant Hills Railway Station and approximately 500m east of the Pennant Hills Town Centre.

Surrounding development comprises predominantly commercial development to the north-east and industrial development along the northern side of Pennant Hills Road. The streetscape along George Street consists predominantly of residential development to the south-east and east of the site.

Adjacent to the site on the northern corner of George Street and Pennant Hills Road is an existing KFC restaurant with a drive-thru facility and a car parking area.

To the rear of the site the land is zoned and developed for residential purposes along George Street, Harold Avenue and surrounding residential streets.

The six lanes of Pennant Hills Road and concrete median provide separation to the Pennant Hills commercial and industrial area which comprises land zoned Business A (General) and Industrial B (Light) under the *Hornsby Shire Local Environmental Plan 1994*.

PROPOSAL

The proposal is to demolish the existing commercial showroom buildings and other improvements on the site and construct a purpose-built day surgery facility comprising the following:

Ground Floor

- 24 car parking spaces plus an ambulance bay;
- A loading bay;
- Entry lobby with staircase and lift;
- Services rooms incorporating a switch room, medical gases room, medical waste room and garbage and recycling room;
- Air conditioning plant and generator; and
- Fire stairs and dumb waiter lift.

First Floor

- Reception and waiting area;
- 3 operating theatres;
- 2 recovery areas with 'Recovery 1' providing 8 beds and 'Recovery 2' providing 11 chairs;
- Pre-operation lounge room;
- Dirty room and clean room;
- Sterile store room;
- 2 Interview rooms;
- Discharge room;
- Staff room;
- Male, female and 3 private change rooms (including 1 accessible);
- 2 standard toilet rooms, 2 staff toilet rooms, and cleaner toilet room;

- Various store rooms, cleaner utility room and waste holding room;
- Tea room; and
- Office room.

Vehicular access/ egress is via George Street, whilst pedestrian access/ egress will be via the main lobby located near the Pennant Hills Road and George Street corner. A separate staircase to be used by staff only is also provided from George Street. The proposed day surgery facility specialises in endoscopy consultation and surgery. All patients are discharged at the close of business each day.

The proposed hours of operation of the day surgery facility are 7am to 6pm Monday to Friday, with occasional after hours administration work undertaken by doctors. The proposed day surgery will not operate on weekends or public holidays.

A maximum of 25 staff will be employed at the proposed day surgery facility at any one time. This comprises 6 doctors, 16 nurses and 3 reception/ administrative staff. The applicant has advised that typically only 2 theatres will be in operation simultaneously and therefore, the staffing levels would be less than the maximum at 18 staff (4 doctors, 12 nurses and 2 reception/ administrative staff).

The proposal includes the erection of 3 signs, comprising 2 wall signs on the north east and south west elevations and 1 advertising panel on the Pennant Hills Road frontage.

ASSESSMENT

The development application has been assessed having regard to the *'Metropolitan Plan for Sydney 2031'*, the *'North Subregion (Draft) Subregional Strategy'* and the matters for consideration prescribed under Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act). The following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Metropolitan Plan for Sydney and (Draft) North Subregional Strategy

The *(Draft) Metropolitan Strategy for Sydney 2031* is a broad framework to provide for Sydney's growth to help plan for housing, employment, transport, infrastructure, the environment and open space. It outlines a vision for Sydney to 2031; the challenges faced, and the directions to follow to address these challenges and achieve the vision.

The North Subregion comprises Hornsby, Kuring-gai, Manly, Warringah and Pittwater Local Government Areas. The Draft North Subregional Strategy acted as a framework for Council in the preparation of the new *Hornsby Local Environmental Plan 2013*.

Within the North Subregion, the Draft Metropolitan Strategy proposes:

- Population growth of 81,000 from the current 2011 baseline of 529,000
- Housing growth of 37,000 from the current 2011 baseline of 204,000
- Employment growth of 39,000 from the current 2011 baseline of 186,000

The proposed development would be consistent with the *Metropolitan Plan for Sydney 2031* by providing health facilities for a increasing population.

2. STATUTORY CONTROLS

Section 79C(1)(a) requires Council to consider “*any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and regulations*”.

2.1 Hornsby Shire Local Environmental Plan 1994

The subject land is zoned Business B (Special) under the *Hornsby Shire Local Environmental Plan 1994 (HSLEP)*. The objectives of the Business B (Special) zone are:

- (a) *to encourage economic growth and employment opportunities.*
- (b) *to accommodate the retail, service and social needs of the community within the neighbourhood.*
- (c) *to encourage development that improves the health, vitality, cultural environment and social environment within neighbourhood business centres.*

The proposed development is defined as ‘*demolition*’, ‘*medical centre*’ and ‘*advertising*’ under the *HSLEP* and is permissible in the zone with Council’s consent.

Clause 15 of the *HSLEP* prescribes that the maximum floor space ratio (FSR) of development within the Business B (Special) zone is 0.5:1. The proposed development has a FSR of 0.76:1, which does not comply with this requirement and the applicant has made a submission pursuant to SEPP 1 to vary the development standard. The submission is discussed in Section 2.3 of this report.

Clause 18 of the *HSLEP* sets out heritage conservation provisions for the Hornsby Shire. The property is in close proximity to property No. 4 Harold Avenue, Pennant Hills which is listed as a heritage item (“*House*”) of local significance under the provisions of Schedule D (Heritage Items) of the *HSLEP*.

A Heritage Impact Statement (HIS) accompanies the application. Council’s Heritage assessment of the application concludes that the proposal would not adversely affect the setting or heritage significance of the heritage item.

2.2 Hornsby Local Environmental Plan 2013

The *Hornsby Local Environmental Plan 2013* was made on 27 September 2013 and came into effect on 11 October 2013. The *HLEP* includes a savings provision stating that if a development application is made and not finally determined before the commencement of the

HLEP, the application must be determined as if the Plan had been exhibited but not commenced. The relevant provisions of the *HLEP* are addressed below.

2.9.1 Zoning

The site is zoned B6 (Enterprise Corridor) pursuant to the Land Use Table of the *HLEP*. The proposed development is defined as a '*health services facility*' and is a permissible use in the zone with Council's consent.

2.9.2 Height of Building

Clause 4.3 of the *HLEP* provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 10.5m.

The proposal complies with this provision as the bulk of the building is significantly below 8.5m in height with the exception of a small component of the building at the northern corner that presents to Pennant Hills Road and George Street, which is approximately 200mm above 8.5m, ensuring the development is consistent with the height limit of 8.5m in the adjoining residential zone.

2.9.3 Floor Space Ratio

Clause 4.4 of the *HLEP* provides that the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. The FSR for the subject site is 0.5:1.

GFA is defined differently under the *HLEP* and therefore, the development would have an FSR of 0.69:1. Notwithstanding, the development remains non-compliant with the 0.5:1 maximum FSR and the justification is addressed in the submitted SEPP 1 to vary the development standard of the *HSLEP* as discussed in Section 2.3 of this report.

2.3 State Environmental Planning Policy No. 1 - Development Standards

SEPP 1 provides flexibility in applying development standards and enables a consent authority to vary a standard where strict compliance would be unnecessary, unreasonable, or tend to hinder the objectives of the Act. Where there is a variation to a development standard, the application must be accompanied by a SEPP 1 objection.

The applicant has submitted an objection against Council's adherence to the 0.5:1 FSR development standard under Clause 15 of the *HSLEP*. The proposed development has a FSR of 0.76:1 and exceeds the permitted floor space by 335.42m².

The Land and Environment Court has expressed the view that there are five different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the Policy:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standards;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

The applicant submits that strict compliance with the density requirements is unreasonable and unnecessary for the following reasons:

- The design responds sensitively to the environmental capacity of the site by providing a 3.5m setback to the adjoining residential properties at Nos. 2 and 4 Harold Avenue and presents as only single storey at the southern corner of the building facing No. 4 Harold Avenue (local heritage item).
- The GFA of the proposed development is significantly less than the existing commercial buildings currently occupying the site and therefore, bulk and scale impacts upon adjoining properties and the public domain will not increase.
- The development is consistent with the objectives of the Business B zone in that the proposed day surgery facility will be a state of the art medical facility providing high quality care to the local and wider community and proposes to employ up to 6 doctors, 16 nursers and 3 administration staff which will encourage local employment and economic growth. This in turn will assist in increasing patronage to local businesses and thus contribute to the vitality, cultural and social environment of Pennant Hills.
- The proposal is considered to demonstrate good urban design and provides a positive contribution to the streetscape. The proposed development redistributes the mass of the building away from the amenity and land use sensitive south western boundary of the site and establishes an architecturally designed building façade along the frontage of Pennant Hills Road and George Street. The subject site is located on a highly visible corner on one of the most

heavily travelled roads in NSW. Therefore, the proposed building represents an opportunity to establish an appropriate long term use of the site in a purpose built and architecturally designed medical building that is intended to serve as a local landmark that contributes positively to the urban fabric of Pennant Hills.

The objection under SEPP 1 accords with the legislative requirements and it is considered that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case. The proposed FSR (0.76:1) represents a 12.7% decrease in the FSR of the existing commercial use approved on the site (0.87:1). Accordingly, the SEPP 1 objection is supported and it is considered the proposal meets the objective of Clause 15 of the *HSLEP*, that is, *"To control the intensity and scale of development of land so that development will be in accordance with the land's environmental capacity and zone objectives."*

2.4 State Environmental Planning Policy No. 55 - Remediation of Land

Clause 7 of *State Environmental Planning Policy No. 55 - Remediation of Land* requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land.

Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make the land suitable for the proposed use, Council must be satisfied that the land would be remediated before the land is used for that purpose.

An Environmental Investigation Report (Phases 1 & 2) prepared by Environmental Strategies Pty Ltd was prepared for the previous development application (DA/1427/2010) for a McDonalds restaurant and drive thru on the site. Environmental Strategies Pty Ltd provided a Letter of Reliance to applicant for the current application stating that the applicant may rely on the information, findings, conclusions and recommendations contained within the reports for financial decisions relative to the subject property.

The Environmental Investigation Report (Phases 1 & 2) concludes that the site is suitable for the proposed commercial use. Council's environmental review of the submitted information assessed the development as satisfactory with regard to SEPP 55.

2.5 State Environmental Planning Policy No. 64 - Advertising and Signage

This Policy aims to improve the amenity of urban and natural settings by managing the impact of outdoor advertising. In accordance with Part 3, Clause 9, the proposed signage is defined as a 'business identification sign' and the provisions of Part 3 of the Policy do not apply.

The signage is considered to be consistent with the provisions of SEPP 64, in that it meets the objectives to be compatible with the desired amenity and visual character of the area and satisfies the assessment criteria in Schedule 1 of the SEPP and is considered to be acceptable in terms of its impact.

2.6 State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy Infrastructure 2007 provides a consistent planning regime for infrastructure and the provision of services across New South Wales, along with providing for consultation with relevant public authorities during the assessment process.

Part 3 of the Policy provides development controls for various land uses and activities.

Division 17 addresses the consideration of Roads and Maritime Services (RMS) and, specifically, Subdivision 2 applies to development in, or adjacent to, road corridors and road reservations. Specifically:

- Clause 101 sets out matters to be considered for development which has a frontage to a classified road; and
- Clause 104 identifies traffic generating development which must be referred to the RMS.

Pennant Hills Road is a classified road; consequently Clause 101 of the SEPP applies. Access to the site is via George Street and not Pennant Hills Road and the existing crossing will be removed as part of the application. The submitted Traffic Report and Council's assessment of the proposal concludes that peak morning and afternoon period traffic generation is low which Pennant Hills Road is able to cater for. Furthermore, the vehicular access via George Street has been sited to as to not adversely impact upon Pennant Hills Road.

Acoustic treatments have been incorporated into the design of the building to ameliorate potential traffic noise within the site arising from the adjacent classified road.

The proposed development does not meet the criteria for traffic generating development in Schedule 3 of the Policy, and consequently referral to the RMS under Section 104 of the SEPP is not required.

2.7 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site is located within the catchment of Sydney Harbour. As such, the land is subject to the *SREP (Sydney Harbour Catchment) 2005*. The aim of the Plan is to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained.

The Plan addresses matters related to biodiversity, ecology and environment protection; public access to, and use of, foreshores and waterways; maintenance of a working harbour; interrelationship of waterway and foreshore uses; foreshore and waterways scenic quality; maintenance, protection and enhancement of views and boat storage facilities

It is considered that the proposed development is not inconsistent with the aims and objectives of the Plan subject to the imposition of appropriate conditions of consent.

2.8 Clause 74BA Environmental Planning and Assessment Act, 1979 - Purpose and Status of Development Control Plans

On 1 March 2013, the *Environmental Planning and Assessment Act, 1979* was amended so that a DCP provision will have no effect if it has the practical effect of “*preventing or unreasonably restricting development*” that is otherwise permitted and complies with the development standards set out in relevant Local Environmental Plans and State Environmental Planning Policies.

The principal purpose of a development control plan is to provide guidance on the aims of any environmental planning instrument that applies to the development; facilitating development that is permissible under any such instrument; and achieving the objectives of land zones under any such instrument. The provisions of a development control plan made for that purpose are not statutory requirements.

2.9 Hornsby Development Control Plan 2013

The Hornsby Development Control Plan (HDCP) 2013 applies to all land within Hornsby Shire replaces Council's existing DCPs, providing development controls to complement the *HLEP*. The HDCP came into effect on 11 October 2013. The following sections of this report include a detailed assessment of the proposal against Council's existing DCP controls that applied at the time the application was lodged. Although the HDCP was not in force at the date of lodgement of the application, the development proposal has been assessed against the Plan.

The HDCP is generally a transition of Council's existing DCPs, into a consolidation Plan. Notwithstanding, it is noted that the following controls are inconsistent with the existing DCP requirements and a brief discussion of the HDCP requirements is provided below:

2.9.1 Vehicle Access and Parking

The proposed vehicle access to the site is via a driveway off George Street, which is consistent with the HDCP requirement that direct vehicular access to main roads should be avoided where alternative access is available via side roads or service lanes.

The development proposes 24 car parking spaces including 1 disabled car parking space. A minimum of 4 parking spaces per surgery resulting in 12 car parking spaces is required for the development under the HDCP and the development complies with this requirement.

The HDCP also requires that 1 motorcycle spaces be provided for the development and that 2 bicycle spaces for staff be provided. A condition is recommended to provide 1 motorcycle space and 2 bicycle spaces.

Subject to the recommended conditions regarding bicycle and motorcycle parking spaces, the application is assessed as satisfactory with regard to vehicle access and parking requirements.

2.10 Business Lands Development Control Plan and Pennant Hills Commercial Centre Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive design requirements within Council's *Business Lands Development Control Plan (Business Lands DCP)* and *Pennant Hills Commercial Centre Development Control Plan (Pennant Hills Commercial Centre DCP)*. The following table sets out the proposal's compliance with the prescriptive requirements of the Plans:

Business Lands Development Control Plan and Pennant Hills Commercial Centre Development Control Plan			
Control	Proposal	Requirement	Compliance
Site Area	1291m ²	N/A	N/A
Gross Floor Area	980.92m ²	N/A	N/A
FSR	0.76:1	0.5:1	No - SEPP 1
Height	2 storey	2 storey	Yes
Car parking	24 spaces 1 ambulance space 1 loading bay	34 spaces	No
Signage			
- Total area	5.19m ²	max. 16.73m ²	Yes
- Total wall signs	2 signs	N/A	N/A
- Total advert panels	1 signs	N/A	N/A
- TOTAL SIGNAGE	3 signs	3 signs	Yes
Setbacks			
- Pennant Hills Road	3m-4m	5m	No
- George Street	0-4m	0m	Yes
- Side (southwest)	0-3.8m	0m	Yes
- Side (southeast)	3.5m	0m	Yes

As detailed in the above table, the proposed development does not comply with the prescriptive requirements for car parking and front setback within Council's *Business Lands DCP* and *Pennant Hills Commercial Centre DCP*. The matters of non-compliance are detailed below, as well as a brief discussion on compliance with relevant performance requirements.

2.10.1 Density

The proposed development does not comply with the FSR requirement contained within the Business Lands DCP. The proposed 0.76:1 floor space ratio exceeds the permitted floor

space by 335.42m². The non-compliance is considered acceptable with regard to the SEPP 1 objection submitted with the application and addressed in Section 2.3 above. Accordingly, the proposal is considered satisfactory with regard to density.

2.10.2 Design

The proposed architectural form and scale is compatible with the surrounding commercial developments and is consistent with the business zoning of the land. The design of the development includes a landscape setback at the interface with the adjoining residential development and contributes to the urban fabric through articulation of the built form.

2.10.3 Height

The proposed development complies with the maximum building height of two storeys prescribed by the Business Lands DCP and is consistent with adjoining commercial buildings located along Pennant Hills Road. Furthermore, the development provides a 1 to 2 storey building scale along its south-eastern elevation that adjoins residential properties.

2.10.4 Vehicle Access and Car Parking

The design and access to the car park area has been located where it would have least impact on traffic movement on the road network and provides for vehicles to enter and leave in a forward direction. The deficiency in respect to the number of car parking spaces is discussed in Section 2.11 of this report.

2.10.5 Setbacks

Other than the front setback to Pennant Hills Road, the proposed development complies with the setback prescriptive measures of the DCPs. The front setback of the proposed day surgery is consistent with adjoining commercial buildings located along Pennant Hills Road and the existing commercial buildings located upon the site.

The development includes a 3.5m landscaped setback along the south eastern boundary to reduce potential amenity impacts to adjacent neighbouring residential properties.

Notwithstanding the non-compliance with the front setback provision, the proposed development is considered to satisfy the element objective of the DCP.

2.10.6 Signage

The proposal includes the erection of 3 signs on the site, which complies with the requirement of a maximum total of 3 signs per site. The proposed development also complies with the maximum total signage area permitted on the site.

The proposed signage is considered appropriate for the development and is consistent with the existing KFC site signage located on the opposite corner of Pennant Hills Road and George Street and the signage on surrounding development within the Pennant Hills Commercial precinct.

The proposed development is considered to satisfy the element objective of the DCP.

2.10.7 Acoustics

The DCP states that the hours of operation of commercial activities should be between 7am to 6pm Monday to Wednesday and Friday, 7am to 9pm Thursday and 8am to 4pm Saturday with no work to be undertaken on Sunday or Public Holidays. The proposed hours of operation are 7am to 6pm Monday to Friday only, which complies with the prescriptive requirements of the DCP.

2.10.8 Privacy

A submission received raises concerns with regards to potential privacy impact and overlooking from the development to the adjoining residential rear yards and requests that a high brick fence be constructed similar to the acoustic wall on the nearby Shell Service Station site to maintain privacy.

The design of the building incorporates measures such as small highlight windows 1.6m above finished floor level on the south-eastern elevation. These windows service the operating theatres and the dirty and clean room and therefore, people occupying these rooms will not typically be in a position to have a direct line of sight to the rear yards of adjoining residential properties.

Furthermore, the proposed landscaping along this elevation and boundary includes the planting of 7 trees thereby filtering any potential lines of sight between the proposed development and the adjoining residential properties on Harold Avenue. Due to the low intensity use of the site the existing fence would ameliorate any aural and visual privacy concerns.

2.10.9 Solar Access

The proposed development allows for over two hours of sunshine to the private open space for adjacent residential dwellings along Harold Avenue between 9am and 3pm on 22 June. Additionally, the proposal allows for all north facing windows to living areas of adjacent residential dwellings along Harold Avenue to receive three hours of sunshine between 9am and 3pm on 22 June.

The proposal meets the prescriptive measures of the DCP and it is considered that the shadow cast by the proposed development on the adjoining residential development is not such as to warrant refusal of the application.

2.10.10 Landscaping

The application includes a landscape concept plan providing landscaping along the street frontages of Pennant Hills Road and George Street within the confines of the site. Whilst additional street tree planting within the road reserve adjoining the two street frontages would

potentially soften the appearance of the development, it is considered impractical to condition additional street tree planting due to safety concerns for vehicles and pedestrians on Pennant Hills Road and George Street and non-compliances with Austroads guidelines.

2.10.11 Commercial Centres Hierarchy

The proposed development is consistent with, and reinforces, the identified role of the Enterprise Corridor within the commercial centres hierarchy.

2.10.12 Crime Prevention

A Crime Prevention Through Environmental Design (CPTED) assessment report accompanies the application and the development includes provisions to enable the ground floor car park to be secured after hours and will not allow for the public to access the building. A security pass system will operate for employees wishing to access and leave the premises after hours.

2.11 Car Parking Development Control Plan

In accordance with Council's Car Parking DCP, the parking requirement for medical centres is 3 spaces per surgery, plus 1 space per doctor, plus 1 space per employee. The proposed development includes 3 surgeries, 6 doctors and a maximum of 19 employees, which would result in a requirement for 34 parking spaces. The development proposes a total of 24 parking spaces which does not comply with the requirements of the DCP.

The proposed 24 spaces are considered appropriate given the proximity of the development to Pennant Hills Railway Station. To ensure availability of parking for visitors and to encourage the use of public transport by staff, a condition is recommended in Schedule 1 that 9 of the car parking spaces be dedicated to visitors.

2.12 Outdoor Advertising Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive design requirements within Council's Outdoor Advertising Development Control Plan (Outdoor Advertising DCP). The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

Outdoor Advertising Development Control Plan			
Control	Proposal	Requirement	Compliance
Total Signage Area	5.1m ²	max. 16.735m ²	Yes
<i>Building Signage</i>			
Wall Sign x 2 - Area	1.54m ²	4m ²	Yes

- Height above ground to base	>5m	>2.6m	Yes
Advertising Panel			
- Area	2.1m ²	4m ²	Yes

As detailed in the above table, the proposed development complies with the prescriptive requirements within Council's Outdoor Advertising DCP. The proposed signage for the site is consistent with existing signage currently on the site and is in keeping with commercial development in the locality.

2.13 Access and Mobility Development Control Plan

The primary purpose of this DCP is to assist proponents and Council in ensuring the requirements for equality of access in the *Anti Discrimination Act 1977* are satisfied when building work is proposed.

The proposed development has been designed for accessible street access paths from Pennant Hills Road and provides an accessible car parking space. A lift provides access from the basement car park level to first floor. The applicant has provided an Accessibility Report prepared by Cheung Access, which concludes that the proposed development has capacity to meet the deemed-to-satisfy provisions contained within the *Disability (Access to Premises-Buildings) Standards 2010* and Part D3 of the *BCA*.

Accordingly, the proposed development is consistent with the objectives of the Access and Mobility Development Control Plan.

2.14 Sustainable Waters Development Control Plan

The DCP aims to achieve the implementation of sustainable water practices into the management of development in the Hornsby Shire.

Subject to sediment and erosion control measures being implemented on site during construction, the proposal would comply with the requirements contained within the Sustainable Water Development Control Plan.

2.15 Waste Minimisation and Management Development Control Plan

The proposal includes a waste management plan and details of on-going waste management on site. Subject to compliance with the recommended conditions in Schedule 1, the proposed development would comply with the requirements of the Waste Minimisation and Management Development Control Plan.

2.16 Section 94 Development Contributions Plan 2012- 2021

Section 94 of the *Environmental Planning and Assessment Act, 1979* enables Council to levy development contributions towards the cost of community facilities, public works, open space and recreational facilities.

The proposed re-development of the site for use as a day surgery would not result in a net increase in the commercial floor area of existing development on the site. Therefore, no s94 contribution is payable as the proposed development would not result in the intensification of the use of the site.

3. ENVIRONMENTAL IMPACTS

Section 79C(1)(b) of the Act requires Council to consider *"the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality"*.

3.1 Natural Environment

The application has been supported by an arborist report that assesses existing trees located on the adjoining properties in close proximity to the site boundaries. Council's assessment of the proposal concludes that subject to the recommendations of the Arborist report, the proposed development would not have a detrimental impact on the trees located on the adjoining properties nor the natural environment.

3.2 Built Environment

The matters in relation to the impact of the development on the built environment have been addressed in Section 2.10 of this report.

Council's assessment of the traffic impacts of the development concludes that the development would be acceptable with regard to the level of traffic generated on the local road network.

3.3 Social Impacts

The proposal would have a positive social impact on the locality by providing improved health services to assist in meeting the demands of an increasing population.

3.4 Economic Impacts

The proposal would not have a detrimental economic impact on the locality.

4. SITE SUITABILITY

Section 79C(1)(c) of the Act requires Council to consider *"the suitability of the site for the development"*.

There is no known hazard or risk associated with the site with respect to landslip, subsidence, flooding and bushfire that would preclude development of the site.

5. PUBLIC PARTICIPATION



Section 79C(1)(d) of the Act requires Council to consider *"any submissions made in accordance with this Act"*.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 16 July 2013 and 8 August 2013 in accordance with Council's *Notification and Exhibition Development Control Plan*. During this period, Council received one submission. The map below illustrates the location of the nearby landowner who made a submission.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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One submission objected to the development, generally on the grounds that the development would result in:

- Unacceptable traffic and parking on local streets;
- Intensity of the development;
- Privacy Impacts;
- Request high brick fencing to be constructed to provide screening/ privacy.

The merits of the matters raised in community submissions have been addressed in the body of the report.

5.2 Public Agencies

The site has frontage to a classified road and was referred to Roads and Maritime Service (RMS) for comment. RMS reviewed the application and provided concurrence to the removal of the existing driveway on Pennant Hills Road under Section 138 of the *Roads Act 1993* subject to the recommended conditions in Schedule 1.

6. THE PUBLIC INTEREST

Section 79C(1)(e) of the Act requires Council to consider “*the public interest*”.

The public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. Implicit to the public interest is the achievement of future built outcomes adequately responding to and respecting the future desired outcomes expressed in environmental planning instruments and development control plans.

The application is considered to have satisfactorily addressed Council's and relevant agencies' criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

CONCLUSION

The application proposes the demolition of existing structures and construction of a purpose-built day surgery facility, associated landscape works and erection of 4 signs.

The development generally meets Council's planning controls and is satisfactory having regard to the matters for consideration pursuant to Section 79C of the *Environmental Planning and Assessment Act, 1979*.

Council received 1 submission during the public notification period and appropriate controls and conditions are recommended to minimise disruption to residential amenity.

Having regard to the circumstances of the case, approval of the application is recommended.

Note: At the time of the completion of this planning report, no persons have made a *Political Donations Disclosure Statement* pursuant to Section 147 of the *Environmental Planning and Assessment Act 1979* in respect of the subject planning application.

Attachments:

1. Locality Plan
2. Architectural Plans
3. Landscape Plan
4. Shadow Diagrams

5. Perspectives
6. Photomontage

SCHEDULE 1

GENERAL CONDITIONS

The conditions of consent within this notice of determination have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the relevant legislation, planning instruments and Council policies affecting the land and does not disrupt the amenity of the neighbourhood or impact upon the environment.

Note: For the purpose of this consent, the term 'applicant' means any person who has the authority to act on or the benefit of the development consent.

Note: For the purpose of this consent, any reference to an Act, Regulation, Australian Standard or publication by a public authority shall be taken to mean the gazetted Act or Regulation, or adopted Australian Standard or publication as in force on the date that the application for a construction certificate is made.

1. Approved Plans and Supporting Documentation

The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by Council and/or other conditions of this consent:

Approved Architectural Plans prepared by Anthony Vavayis + Associates

Plan No.	Plan Title	Rev	Dated
DA 0001	Site and Roof Plan	D	25 June 2013
DA 0101	Site Analysis and Demolition Plan	D	25 June 2013
DA 1001	Ground Floor Plan	J	5 August 2013
DA 1002	First Floor Plan	J	25 June 2013
DA 2001	Section	D	25 June 2013
DA 3001	Elevations	G	25 June 2013

Approved Stormwater Plans prepared by whipps-wood Consulting

Plan No.	Plan Title	Rev	Dated
HDA01	Hydraulic Services Street Location Plan	P1	21 June 2013
HDA02	Hydraulic Services Ground Floor Plan	P1	21 June 2013
HDA03	Hydraulic Services First Floor Plan	P1	21 June 2013

HDA04	Hydraulic Services Roof Plan	P1	21 June 2013
HDA05	Hydraulic Services Stormwater Details	P1	21 June 2013

Approved Architectural Plans prepared by Paul Scrivener Landscape Architecture

Plan No.	Plan Title	Rev	Dated
13/1701	Landscape Plan	C	24 June 2013

Supporting Documentation

Document Title	Prepared by	Dated
Statement of Environmental Effects Project No. 8365B	Don Fox Planning	June 2013
Traffic Report Ref: 8971	Colston, Budd, Hunt & Kafes	June 2013
BCA Assessment Report Ref: 104461-BCA-r1/mk	BCA Logic Pty Ltd	17 June 2013
Disability Access Report Ref: 091184	Cheung Access	19 June 2013
Site Survey	Lockley Land Title Solutions	10 February 2010
Arboricultural Impact Assessment Report	Tree IQ	21 May 2013
Acoustic Report Ref: 20130381.1/2205A/R2/GW	Acoustic Logic	22 May 2013
Waste Management Plan	Anthony Vavayis + Associates	24 June 2013
Phase 1 Environmental Investigation	Environmental Strategies	5 November 2009
Phase 2 Environmental Site Assessment	Environmental Strategies	30 June 2009
Environmental Strategies Reliance Letter	Environmental Strategies	23 May 2012

2. Amendment of Plans

The approved plans are to be amended as follows:

- a) Two bicycle parking spaces and one motorcycle parking space are to be provided in the car park.
- b) Tree protection fencing should be shown on all site plans along the property boundaries on the south-western and eastern sides as recommended in section 4.7 of the Arboricultural Impact Assessment Report, prepared by Tree IQ, dated 21 May 2013.
- c) A minimum 9 carparking spaces to be allocated and signposted for visitors only.

3. Construction Certificate

A Construction Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any works under this consent.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE
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4. Building Code of Australia

All building work must be carried out in accordance with the relevant requirements of the Building Code of Australia.

5. Electricity Utility Services

The applicant must submit written evidence of the following service provider requirements:

- a) *Ausgrid (formerly Energy Australia)* - a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.

6. Sydney Water – Quick Check

This application must be submitted to a *Sydney Water* 'Quick Check Agent' or 'Customer Centre' for approval to determine whether the development would affect any *Sydney Water* infrastructure, and whether further requirements are to be met.

Note: Refer to www.sydneywater.com.au or telephone 13 20 92 for assistance.

7. Car Parking and Deliveries

All car parking must be constructed and operated in accordance with *Australian Standard AS 2890.1- 2004 - Off Street Car Parking* and *Australian Standard 2890.2- 2002 - Off Street Commercial* and *Australian Standard 2890.3-1993 - Bicycle parking facilities* and the following requirement:

- a) All parking areas and driveways are to be sealed to an all weather standard, line marked and signposted.

- b) Car parking, loading and manoeuvring areas to be used solely for nominated purposes.
- c) Vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads;
- d) All vehicular entry on to the site and egress from the site shall be made in a forward direction.
- e) Two bicycle parking spaces are to be provided for staff.
- f) All parking spaces for people with disabilities must be constructed and operated in accordance with *Australian Standard AS/NZS 2890.6:2009 - Off-street parking for people with disabilities*.
- g) Headroom clearance of 3.6 metres is to be maintained at change of grade to basement level.
- h) Maximum grade of access ramp is to be in accordance with *AS2890.2-2002*.
- i) Minimum sight lines for pedestrian safety are to be provided at the driveway.

8. Construction Management Plan

A Construction Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.

9. Design of George Street Kerb Realignment

A detailed design for realignment of kerb along George Street site's frontage be provided to Council and approved by the Design Branch. The design shall be in accordance with Council standards.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS
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10. Erection of Construction Sign

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- a) Showing the name, address and telephone number of the principal certifying authority for the work;
- b) Showing the name of the principal contractor (if any) for any demolition or building work and a telephone number on which that person may be contacted outside working hours; and
- c) Stating that unauthorised entry to the work site is prohibited.

Note: Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

11. Protection of Adjoining Areas

A temporary hoarding, fence or awning must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

- a) Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic.
- b) Could cause damage to adjoining lands by falling objects.
- c) Involve the enclosure of a public place or part of a public place.

Note: Notwithstanding the above, Council's separate written approval is required prior to the erection of any structure or other obstruction on public land.

12. Toilet Facilities

Toilet facilities must be available or provided at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet for every 20 persons employed at the site. Each toilet must:

- a) be a standard flushing toilet connected to a public sewer; or
- b) be a temporary chemical closet approved under the *Local Government Act, 1993*; or
- c) have an on-site effluent disposal system approved under the *Local Government Act, 1993*.

13. Erosion and Sediment Control

Erosion and sediment control measures must be provided and maintained throughout the construction period in accordance with the manual '*Soils and Construction 2004 (Bluebook)*', the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sediment control devices must remain in place until the site has been stabilised and revegetated.

Note: On the spot penalties up to \$1,500 may be issued for any non-compliance with this requirement without any further notification or warning.

14. Tree Protection Barriers

Tree protection fencing must be erected along the property boundaries on the south-western and eastern sides as recommended in section 4.7 of the Arboricultural Impact Assessment Report, prepared by Tree IQ, dated 21 May 2013. The tree fencing must be constructed of 1.8 metre 'cyclone chainmesh fence'

REQUIREMENTS DURING CONSTRUCTION

15. Construction Work Hours

All work on site (including demolition and earth works) must only occur between 7am and 5pm Monday to Saturday. No work is to be undertaken on Sundays or public holidays.

16. Demolition

All demolition work must be carried out in accordance with "*Australian Standard 2601-2001 – The Demolition of Structures*" and the following requirements:

- a) Demolition material must be disposed of to an authorised recycling and/or waste disposal site and/or in accordance with an approved waste management plan;
- b) Demolition works, where asbestos material is being removed, must be undertaken by a contractor that holds an appropriate licence issued by *WorkCover NSW* in accordance with Chapter 10 of the *Occupational Health and Safety Regulation 2001* and Clause 29 of the *Protection of the Environment Operations (Waste) Regulation 2005* and;
- c) On construction sites where buildings contain asbestos material, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm must be erected in a prominent position visible from the street.

17. Environmental Management

The site must be managed in accordance with the publication '*Managing Urban Stormwater – Landcom (March 2004)*' and the *Protection of the Environment Operations Act 1997* by way of implementing appropriate measures to prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction of the development.

18. Works Near Trees

All required tree protection measures are to be maintained in good condition for the duration of the construction period.

All works (including driveways and retaining walls) within 4 metres of any trees required to be retained (whether or not on the subject property, and pursuant to this consent or the *Tree Preservation Order*), must be carried out under the supervision of an '*AQF Level 5 Arborist*' and a certificate submitted to the principal certifying authority detailing the method(s) used to preserve the tree(s).

Note: Except as provided above, the applicant is to ensure that no excavation, filling or stockpiling of building materials, parking of vehicles or plant, disposal of cement slurry, waste water or other contaminants is to occur within 4 metres of any tree to be retained.

19. Council Property

During construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath. The public reserve must be kept in a clean, tidy and safe condition at all times.

20. Disturbance of Existing Site

During construction works, the existing ground levels of open space areas and natural landscape features, (including natural rock-outcrops, vegetation, soil and watercourses) must not be altered unless otherwise nominated on the approved plans.

21. Landfill

Landfill must be constructed in accordance with Council's '*Construction Specification, 2005*' and the following requirements:

- a) All fill material imported to the site is to wholly consist of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material approved under the *Department of Environment and Climate Change's* general resource recovery exemption.

22. Excavated Material

All excavated material removed from the site must be classified in accordance with the Department of Environment, Climate Change and Water NSW *Waste Classification Guidelines* prior to disposal to an approved waste management facility and reported to the principal certifying authority.

23. Waste Management Details

Waste management during the demolition and construction phase of the development must be undertaken in accordance with the approved Waste Management Plan. Additionally written records of the following items must be maintained during the removal of any waste from the site and such information submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works:

- a) The identity of the person removing the waste.
- b) The waste carrier vehicle registration.
- c) Date and time of waste collection.
- d) A description of the waste (type of waste and estimated quantity).
- e) Details of the site to which the waste is to be taken.
- f) The corresponding tip docket/receipt from the site to which the waste is transferred (noting date and time of delivery, description (type and quantity) of waste).

- g) Whether the waste is expected to be reused, recycled or go to landfill.

Note: In accordance with the Protection of the Environment Operations Act 1997, the definition of waste includes any unwanted substance, regardless of whether it is reused, recycled or disposed to landfill.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

Note: For the purpose of this consent, a reference to 'occupation certificate' shall not be taken to mean an 'interim occupation certificate' unless otherwise stated.

24. Stormwater Drainage

The stormwater drainage system for the development must be designed and constructed in accordance with Council's *Civil Works – Design and Construction Specification 2005* and the following requirements:

- a) Connected directly to the drainage system in George Street via the on-site detention system.

25. On-Site Stormwater Detention

An on-site stormwater detention system must be designed by a chartered civil engineer and constructed in accordance with the following requirements:

- a) Have a capacity of not less than 23 cubic metres, and a maximum discharge (when full) of 31 litres per second.
- b) Have a surcharge/inspection grate located directly above the outlet.
- c) Discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.

26. Internal Driveway/Vehicular Areas

The driveway and parking areas on site must be designed in accordance with *Australian Standards 2890.1, 2890.2, 372*. A certificate from a traffic engineer is to be submitted certifying that the access driveways, circulation aisles and parking areas comply with AS 2890.1 and AS 2890.2 and the following requirements:

- a) The basement car park is to be constructed with a minimum headroom height of 3.5m so as to allow access for SRV. The 3.5m is to be measured from the surface of the car park to the underside of any beams, conduits water sprinkler heads etc.

27. Footpath

Prior to the issue of a Construction Certificate for these works a separate application under the *Local Government Act, 1993* and the *Roads Act, 1993* must be submitted to Council for the construction of footpaths within the road reserve. A concrete footpath must be constructed along the full frontage of the subject site in accordance Council's *Civil Works Design and Construction Specification, 2005* and the following requirements:

- a) The existing footpath being removed.
- b) The existing footpath and verge from the kerb line to the property boundary is to be regraded to provide for a 4% grade.
- c) Compliance with any requirements from the RMS.
- d) Any public utility adjustments to be carried out at the cost of the applicant and to the requirements of the relevant public authority.

28. Vehicular Crossing

Prior to the issue of a Construction Certificate for these works a separate application under the *Local Government Act, 1993* and the *Roads Act, 1993* must be submitted to Council for the installation of a new vehicular crossing and the removal of the redundant crossing in Pennant Hills Road. The vehicular crossing must be constructed in accordance with Council's *Civil Works Design, 2005* and the following requirements:

- a) The new vehicular crossing is to be realigned so that it is parallel to the property boundary as shown on the approved architectural plans.
- b) The road pavement between the existing lip line and the new lip line is to be reconstructed in accordance with council's Civil works Specification.

Note: An application for a vehicular crossing can only be made to one of Council's Authorised Vehicular Crossing Contractors. You are advised to contact Council on 02 9847 6940 to obtain a list of contractors.

29. Road Works

Prior to the issue of a Construction Certificate for these works a separate application under the *Local Government Act, 1993* and the *Roads Act, 1993* must be submitted to Council for all works within the road reserve. All road works approved under this consent must be constructed in accordance with Council's *Civil Works Design and Construction Specification, 2005* and the following requirements:

- a) The existing kerb and gutter within George Street is to be removed and reconstructed.
- b) The existing grate and lintel for the stormwater drainage pit in George Street is to be removed and replaced.

- c) The existing road pavement to be saw cut a minimum of 300mm from the existing edge of the bitumen and reconstructed.
- d) Compliance with the requirements of the RMS.

30. Traffic Control Plan

A Traffic Control Plan (TCP) must be prepared by a qualified traffic controller in accordance with the *Roads & Traffic Authority's Traffic Control at Worksites Manual 1998* and *Australian Standard 1742.3* for all work on a public road and be submitted to Council. The TCP must detail the following:

- a) Arrangements for public notification of the works.
- b) Temporary construction signage.
- c) Permanent post-construction signage.
- d) Vehicle movement plans.
- e) Traffic management plans.
- f) Pedestrian and cyclist access/safety.

31. Damage to Council Assets

Any damage caused to Council's assets as a result of the construction of the development must be rectified in accordance with Council's written requirements and at the sole cost of the applicant.

32. Creation of Easements

The following matter(s) must be nominated on the plan of subdivision under s88B of the *Conveyancing Act 1919*:

- a) The creation of an appropriate "*Positive Covenant*" and "*Restriction as to User*" over the constructed on-site detention/retention systems and outlet works, within the lots in favour of Council in accordance with Council's prescribed wording. The position of the on-site detention system is to be clearly indicated on the title.
- b) To register the OSD easement, the restriction on the use of land "*works-as-executed*" details of the on-site-detention system must be submitted verifying that the required storage and discharge rates have been constructed in accordance with the design requirements. The details must show the invert levels of the on site system together with pipe sizes and grades. Any variations to the approved plans must be shown in red on the "*works-as-executed*" plan and supported by calculations.

Note: Council must be nominated as the authority to release, vary or modify any easement, restriction or covenant.

33. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed road pavement, kerb & gutter, public drainage systems, driveways and on-site detention system.

34. Consolidation of Allotments

All allotments the subject of this consent must be consolidated into one allotment.

Note: The applicant is recommended to submit the plan of subdivision to consolidate allotments to the NSW Department of Lands at least 4-6 weeks prior to seeking an occupation certificate.

35. Completion of Landscaping

A certificate must be provided by a practicing landscape architect, horticulturalist or person with similar qualifications and experience certifying that all required landscaping works have been satisfactorily completed in accordance with the approved landscape plans.

Note: Advice on suitable species for landscaping can be obtained from Council's planting guide 'Indigenous Plants for the Bushland Shire', available at www.hornsby.nsw.gov.au.

36. Retaining Walls

All required retaining walls must be constructed as part of the development.

37. Installation of Air Conditioner

To protect the amenity of adjacent properties, the condenser unit for the air conditioner must be sited a minimum of 3 metres from the property boundary of any adjoining residential premises unless a certificate has been prepared by a suitably qualified person confirming that the unit has been tested for heating and cooling on the highest settings and that the noise levels generated do not exceed 5 dB(A) above background noise levels when tested at the property boundary between 8 pm and 10 pm.

38. External Lighting

All external lighting must be designed and installed in accordance with *Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting*. Certification of compliance with the Standard must be obtained from a suitably qualified person.

39. Waste Management Compliance

The following waste management requirements must be complied with:

- a) The main garbage/recycling bin storage room at the basement level must include water or a hose for cleaning, graded floors with drainage to sewer, a robust door, sealed and impervious surface, adequate lighting and ventilation.

b) A report must be prepared by an appropriately qualified person, certifying the following:

- i) A comparison of the estimated quantities of each waste type against the actual quantities of each waste type.
- ii) Note: Explanations of any deviations to the approved Waste Management Plan is required to be included in this report
- iii) That at least 60% of the waste generated during the demolition and construction phase of the development was reused or recycled.

Note: If the 60% diversion from landfill cannot be achieved in the Construction Stage, the Report is to include the reasons why this occurred and certify that appropriate work practices were employed to implement the approved Waste Management Plan. The Report must be based on documentary evidence such as tipping dockets/receipts from recycling depots, transfer stations and landfills, audits of procedures etc. which are to be attached to the report.

- iv) All waste was taken to site(s) that were lawfully permitted to accept that waste.

c) The bin carting routes must be devoid of any steps.

Note: Ramps between different levels are acceptable

40. George Street Kerb Alignment

The kerb alignment in George Street must be reconstructed along the site's frontage to provide consistent alignment prior to issue of the Occupation Certificate.

OPERATIONAL CONDITIONS

41. Advertising Signs

The advertising signage approved under this consent must not flash, move or display electronic images.

42. Hours of Operation

The hours of operation of the premise are restricted to those times listed below:

Monday to Wednesday	7 am to 6 pm
Thursday	7 am to 9 pm
Friday	7 am to 6 pm
Saturday	7 am to 6 pm
Sunday & Public Holidays	No work

43. Noise

All noise generated by the proposed development must be attenuated to prevent levels of noise being emitted to adjacent premises which possess tonal, beating and similar characteristics or which exceeds background noise levels by more than 5dB(A).

44. Storage of Flammable and Combustible Goods

Flammable and combustible liquids must be stored in accordance with *Australian Standard 1940 - The Storage and Handling of Flammable and Combustible Liquids*. A bund wall must be constructed around all work and liquid storage areas to prevent any spillage entering into the stormwater system. The bunded area must provide a volume equal to 110% of the largest container stored and graded to a blind sump so as to facilitate emptying and cleansing.

45. Waste Management

- a) All commercial tenants must keep written evidence on site of a valid contract with a licensed waste contractor(s) for the regular collection and disposal of the waste and recyclables that are generated on site.
- b) The site must have a sufficient number of bins to contain the volume of waste and recycling expected to be generated between collection services.

CONDITIONS OF CONCURRENCE - ROADS AND MARITIME SERVICE

The following conditions of consent are from the nominated State Agency pursuant to Section 79B of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

46. RMS 1

All redundant driveways shall be removed with kerb and gutter reinstated to RMS requirements

47. RMS 2

All work/ regulatory signposting associated with the proposed development are to be no cost to the RMS.

48. RMS 3

A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to RMS for determination prior to the issues of a Construction Certificate.

49. RMS 4

The swept path of the longest vehicle (to service the site) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.

50. RMS 5

The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with *AS2890.1-2004*.

51. RMS 6

A Road Occupancy License should be obtained from TMC for any works that may impact on traffic flows on Pennant Hills Road during construction activities.

52. RMS 7

Should the post development stormwater discharge from the subject site into the RMS system exceed the pre-development discharge, detailed design plans and hydraulic calculations of any charges are to be submitted to the RMS for approval, prior to the commencement of works.

Details should be forwarded to:

Sydney Asset Management
Roads and Maritime Service
PO BOX 973 Parramatta CBD 2124

53. RMS 8

Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclist travelling along the footpath.

- END OF CONDITIONS -

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the *Environmental Planning and Assessment Act, 1979*, *Environmental Planning and Assessment Regulation 2000*, other relevant legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

Environmental Planning and Assessment Act, 1979 Requirements

The Environmental Planning and Assessment Act, 1979 requires:

- The issue of a construction certificate prior to the commencement of any works.
Enquiries regarding the issue of a construction certificate can be made to Council's Customer Services Branch on 9847 6760.
- A principal certifying authority to be nominated and Council notified of that appointment prior to the commencement of any works.
- Council to be given at least two days written notice prior to the commencement of any works.
- Mandatory inspections of nominated stages of the construction inspected.
- An occupation certificate to be issued before occupying any building or commencing the use of the land.

Long Service Levy

In accordance with Section 34 of the Building and Construction Industry Long Service Payments Act 1986, a 'Long Service Levy' must be paid to the Long Service Payments Corporation or Hornsby Council.

Note: The rate of the Long Service Levy is 0.35% of the total cost of the work.

Note: Hornsby Council requires the payment of the Long Service Levy prior to the issue of a construction certificate.

Tree Preservation Order

To ensure the maintenance and protection of the existing natural environment, it is an offence to ringbark, cut down, top, lop, remove, wilfully injure or destroy a tree outside 3 metres of the approved building envelope without the prior written consent from Council.

Note: A tree is defined as a single or multi-trunked wood perennial plant having a height of not less than three (3) metres, and which develops many branches, usually from a distance of not less than one (1) metre from the ground, but excluding any plant which, in its particular location, is a noxious plant declared as such pursuant to the Noxious Weeds Act 1993. This definition of 'tree' includes any and all types of Palm trees.

All distances are determined under Australian Standard AS4970-2009 "Protection of Trees on Development Sites".

Fines may be imposed for non-compliance with Council's *Tree Preservation Order*.

Disability Discrimination Act

The applicant's attention is drawn to the existence of the *Disability Discrimination Act*. A construction certificate is required to be obtained for the proposed building/s, which will provide consideration under the *Building Code of Australia*, however, the development may not comply with the requirements of the *Disability Discrimination Act*. This is the sole responsibility of the applicant.

Covenants

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this consent. Applicants must rely on their own enquiries as to whether or not the building breaches any such covenant.

Dial Before You Dig

Prior to commencing any works, the applicant is encouraged to contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au for free information on potential underground pipes and cables within the vicinity of the development site.

Telecommunications Act 1997 (Commonwealth)

If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

Asbestos Warning

Should asbestos or asbestos products be encountered during demolition or construction works you are advised to seek advice and information should be prior to disturbing the material. It is recommended that a contractor holding an asbestos-handling permit (issued by *WorkCover NSW*) be engaged to manage the proper handling of the material. Further information regarding the safe handling and removal of asbestos can be found at:

www.environment.nsw.gov.au

www.nsw.gov.au/fibro

www.adfa.org.au

www.workcover.nsw.gov.au

Alternatively, telephone the *WorkCover* Asbestos and Demolition Team on 8260 5885.