

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

JRPP No	2015SYW185
DA Number	DA/1234/2015 (Lodged 28 September 2015)
Local Government Area	Hornsby
Proposed Development	Construction of a Performing Arts Centre at an existing educational establishment
Street Address	Lot 1 DP 1042630, No. 449C Pennant Hills Road, Pennant Hills
Applicant/Owner	Applicant: Paynter Dixon Constructions Pty Ltd Owner: Sisters of the Good Samaritan
Number of Submissions	Nil
Regional Development Criteria (Schedule 4A of the Act)	The DA is referred to the JRPP pursuant to Schedule 4A of the Environmental Planning and Assessment Act 1979, as amended. The Panel is authorised to exercise the consent authority functions of Council as the development proposed is for an educational establishment and has a capital investment of more than \$5 million. Capital investment value of the development - \$11,700,000
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • Hornsby Local Environmental Plan 2013 • State Environmental Planning Policy No. 44 - Koala Habitat • State Environmental Planning Policy No. 55 -Remediation of Land • State Environmental Planning Policy (Infrastructure) 2007 • Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 • Hornsby Development Control Plan 2013 • Hornsby Section 94A Contributions Plan 2012- 2021
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Locality Plan • Site Plan • Floor Plans • Elevations & Sections • Landscape Plan

Recommendation	Approval
Report by	Debra Clydsdale – Town Planner from Hornsby Shire Council

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

- The application includes the erection of a Performing Arts Centre at an existing educational establishment.
- The proposal generally complies with the relevant provisions of the *Hornsby Local Environmental Plan 2013* and the *Hornsby Development Control Plan 2013*.
- The applicant has made a submission in accordance with Clause 4.6 of the *Hornsby Local Environmental Plan 2013* to vary the 8.5m building height control. The submission is considered well founded and is supported.
- No submissions were received in respect of the application.
- It is recommended that the application be approved.

RECOMMENDATION

THAT Development Application No. 1234/2015 for the erection of a Performing Arts Centre at an existing educational establishment at Lot 1 DP 1042630, No. 449C Pennant Hills Road, Pennant Hills be approved subject to the conditions of consent detailed in Schedule 1 of this report.

BACKGROUND

Mount St Benedict College was established on the site in 1966. Numerous development applications have been approved over the years for the expansion of the school facilities. Some recent applications are detailed below:

On 14 March 2012, DA/1416/2011 was approved for the alterations and additions to Building E located within the eastern portion of the site. Minor modifications under Section 96 have been approved for design alterations.

On 4 April 2013, DA/54/2013 was approved for the erection of a shade structure to the hockey fields.

On 28 September 2015, DA/1234/2015 was lodged for the erection of a Performing Arts Centre. This application is the subject of this report.

SITE

The subject site is identified as Lot 1 DP 1042630, No. 449C Pennant Hills Road, Pennant Hills, and known as Mount St Benedict College. The site has an area of 4.5Ha and is located on the southern side of Pennant Hills Road, one property to the west of the corner of Beecroft Road.

The land slopes in a southerly direction away from Pennant Hills Road towards the rear of the site. The land also exhibits a cross fall from west to east. The current built upon area of the site has a reasonably gentle slope; however the land drops steeply from the edge of the built

upon areas into the densely vegetated remnant Blue Gum High Forest from the middle to the rear of the site.

Mount St Benedict College is a Catholic girl's high school with an approved enrolment of 920 students. The existing development comprises a number of substantial buildings (eight in total) which are single storey, two storeys and three storeys in height. Several demountable class rooms (four in total) are also situated on site as well as a number of car parking areas. There are 115 car spaces on site. A number of sporting fields are situated on a level expanse of land in the north western corner of the site.

An easement for the Northconnex tunnel corridor traverses the site from the south-west to the north-east. The southern portion of the site contains dense bushland identified as Blue Gum High Forest, which is a critically endangered ecological community. The site's bushland area forms part of the headwaters of Devlin's Creek.

The site is adjoined to the west by an existing convent, 'The Sisters of the Good Samaritan' and to the east by a reserve with frontage to Beecroft Road which contains significant vegetation. The south of the property is adjoined by a mixture of residential developments, both single dwelling houses and multi-unit residential.

PROPOSAL

The application proposes the erection of a two storey building which is to be used as a Performing Arts Centre (PAC) to serve the current school population. The PAC is proposed on a steeply sloping section of the site, between the sporting fields in the north-west, existing school buildings to the north-east and dense bushland to the south and south-east.

The building has been designed to be nestled into the embankment of the sporting oval, overlooking the Blue Gum High Forest to the south. The PAC will be positioned low in the landscape and be hidden when viewed from the north. The roof slab will correspond with the level of the existing grassed oval with the two storeys positioned below.

At ground level, the development comprises:

- Entry, foyer and reception opening to a landscaped forecourt
- Dance/Drama performance space (220 seat capacity)
- Rehearsal room
- Music rooms 1,2 & 3
- Peripatetic rooms 1 -8 (Acoustic sealed practice rooms)
- Props room
- Music store room
- Change room
- Male, female & staff amenities
- Kitchenette

On the first floor level the PAC comprises:

- Plant room
- Electrical room

- Ceramics room (kiln)
- Dance room with associated store room and change room
- Break out space
- Art rooms 1,2 & 3
- Store rooms
- Void over performance space

The roof space will be accessible from the hockey fields to the north and will comprise sitting areas, shade umbrellas and planter boxes.

A large retaining wall will be constructed on the southern side of the building and forecourt to support the development.

A total of 14 trees would be removed to accommodate the development.

ASSESSMENT

The development application has been assessed having regard to 'A Plan for Growing Sydney', 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 A Plan for Growing Sydney and (Draft) North Subregional Strategy

A Plan for Growing Sydney has been prepared by the NSW State Government to guide land use planning decisions for the next 20 years. The Plan sets a strategy for accommodating Sydney's future population growth and identifies the need to deliver 689,000 new jobs and 664,000 new homes by 2031. The Plan identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

The NSW Government will use the subregional planning process to define objectives and set goals for job creation, housing supply and choice in each subregion. Hornsby Shire has been grouped with Hunters Hill, Ku-ring-gai, Lane Cove, Manly, Mosman, North Sydney, Pittwater, Ryde, Warringah and Willoughby to form the North Subregion. The *Draft North Subregional Strategy* will be reviewed and the Government will set housing targets and monitor supply to ensure planning controls are in place to stimulate housing development.

The proposed development would be consistent with 'A Plan for Growing Sydney', by providing additional educational services to support a growing 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 Local Environmental Plan 2013

The proposed development has been assessed having regard to the provisions of the *Hornsby Local Environmental Plan 2013 (HLEP)*.

2.1.1 Zoning of Land and Permissibility

The subject land is zoned R2 Low Density Residential under the *HLEP*. The objectives of the R2 zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of the residents.*

The development is defined as an 'educational establishment' under the *HLEP* and is permissible in the zone with Council's consent. The proposed development would provide for educational facilities for the current college population, thereby providing an educational service to meet the day to day needs of the local residents and the school community. The proposal is consistent with the objectives of the zone.

2.1.2 Height of Buildings

Clause 4.3 of the *HLEP* provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 8.5m. The proposal does not comply with this provision as the development would reach a maximum height of 17.55 metres from natural ground level.

2.1.3 Exceptions to Development Standards

The application has been assessed against the requirements of Clause 4.6 of the *HLEP*. This clause provides flexibility in the exercise of the development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objectives of the zone.

The proposed two storey building has a maximum height of 17.55m above natural ground level to the top of the lift shaft. The main part of the building has a height of 16.05m at the highest point above natural ground level, exceeding the 8.5m building height standard.

The objective of the 'Height of Building' clause under the *HLEP* is as follows:

- (a) to permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.*

The applicant has made a submission in support of a variation to the development standard in accordance with Clause 4.6 of the *HLEP*. The development application seeks to vary the overall height by 9.05m which is slightly more than double the height permissible under the development standard. The applicant states that the proposed variation is considered to be consistent with the objectives of the control and is justified as follows:

- The height of the building is appropriate taking into account the very steep slope of the site where the building is to be located;
- The height of the building is compatible with other buildings on the site;
- The proposed building is lower than the existing building on the adjoining site to the west owned by the Sisters of the Good Samaritan;
- The building only contains two storeys with a lift to provide access to the roof;
- The highest part of the building contains two storeys with a lift which is located in the middle of the building;
- The height of the proposed development would comply with the height requirements if it was constructed on a level part of the site immediately to the north, however this would reduce the amount of recreation space available on the site.
- The height of the building would not adversely affect the amenity of any adjoining properties and would be screened from the properties to the south by existing trees on site.

State Government Guidelines on varying development standards recommend considering the provisions of Clause 4.6 of the HLEP and the 'five part test' established by the Land and Environment Court as follows:

1. *The objective of the standard are achieved notwithstanding noncompliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object or purposes 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 compliance with the development standard is unreasonable or inappropriate due to the existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

With respect to the 'five part test', the proposal satisfies '1' in that the objective of the Building height standard is achieved notwithstanding non-compliance with the standard, as the height of the building is considered appropriate for the site constraints, development potential and infrastructure capacity of the locality.

Further to the above assessment, consideration is also made to the Court's decision in *Four2Five Pty Ltd*, which prescribes that a variation to a development standard must result in a better environmental planning outcome than a fully compliant scheme. The site is heavily constrained by significant vegetation to the south, existing development to the north-east and

sporting fields to the north. The PAC would be sited in a logical position south of the playing fields adjoining dense bushland and has been designed to relate to the topography of the site. The footprint has been sited so as to minimise impacts on native vegetation and to mostly occupy the areas of the site that have been highly modified.

To insist on a fully compliant scheme, a development with a similar gross floor area would likely comprise a larger building footprint. Unless encroachments were made to the existing sporting fields (north), a larger building footprint would occupy a greater area to the south, which would effectively necessitate the removal of a greater number of significant trees that form part of the critically endangered Blue Gum High Forest. The proposed variation to the height standard effectively limits the building footprint to an area of the site where the environmental impacts of the development have been assessed as reasonable. Having regard to this scenario, it is accepted that the variation to the development standard would result in a better environmental planning outcome than a fully compliant scheme.

Having regard to the applicant's submission, it is accepted that strict compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case. The applicant's submission to vary the 8.5m height standard is considered well founded and is supported.

The proposal is consistent with the objectives of Clause 4.6 of the *HLEP* in providing an appropriate degree of flexibility in the application of certain development standards and would result in a better environmental outcome than a compliant scheme.

2.1.4 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire.

The property is located within the Beecroft Cheltenham Heritage Conservation Area under the provisions of Schedule 5 (Environmental Heritage) of the *HELP*. The property is also located within the vicinity of a number of heritage items, including 'Mount Saint Benedict Convent and grounds' at No.449D Pennant Hills Road, 'Blackwood Memorial Sanctuary, including North Road culvert' located at the corner of Beecroft Road and Pennant Hills Road.

Council's heritage assessment notes that the majority of the new building is located within the slope of the southern hillside, resulting in the two storey section being below the ground level of the convent. The flat roof top section of the new building would be close to the ground level of the playing fields and would generally appear as a single storey element when viewed from the north. The materials and finishes of the new building are sympathetic, incorporating brickwork (earthy colour palette), stone, and timber panelling/detailing in conjunction with modern materials to break up the bulk of the building.

Council's heritage assessment concludes that the location and design of the PAC building within the school grounds results in minimal impact on the heritage significance of the Beecroft Cheltenham Conservation Area. The new PAC building would have no adverse heritage impacts on the heritage items in the vicinity of the site due to the use of the slope in the design and the low scale appearance adjacent the convent and chapel. The proposal is assessed and acceptable on heritage grounds and satisfies Clause 5.10 of the *HLEP*.

2.1.5 Earthworks

Clause 6.2 of the *HLEP* requires consent for earthworks and requires Council to assess the impacts of the proposed earthworks on adjoining properties, drainage patterns and soil stability of the locality, before granting development consent for such works.

A geotechnical investigation was prepared by JK Geotechnics dated 13 April 2015 and makes a number of recommendations to be implemented during the construction phase of the development. A condition has been recommended for the development to be carried out in accordance with the recommendations within the report. Further conditions are recommended for excavated material to be disposed of at a licenced facility and for all fill that is to be imported to the site to consist of Virgin Excavated Natural Material (VENM).

The Roads and Maritime Services(RMS) has acquired land for the Northconnex tunnel project beneath the development site. The application was referred to the RMS who raises no objections to the proposal, noting that the land acquired for the tunnel is approximately 54 metres below ground level. The proposed PAC building involves excavation to a maximum depth of 7m metres and would not impact on the integrity of the Northconnex tunnel.

The proposal is assessed as satisfactory with regards to Clause 6.2 of the *HLEP* subject to conditions.

2.1.6 Terrestrial Biodiversity

Clause 6.4 of the *HLEP* applies to the proposal as part of the site is identified as 'Biodiversity' on the Terrestrial Biodiversity Map. This Clause requires Council to consider whether the development is likely to adversely impact on the ecological value of flora and fauna and for Council to be satisfied that development has been designed, sited and managed to avoid any significant adverse environmental impact.

The site contains remnant Blue Gum High Forest which is listed as Critically Endangered under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* and a Critically Endangered Ecological Community under the *NSW Threatened Species Conservation Act 1995*.

A Flora and Fauna Impact Assessment prepared by Keystone Ecological was submitted with the application. The report concludes that the proposal is unlikely to have any significant adverse impact on the Blue Gum High Forest and makes a number of recommendations to ameliorate further impacts. Council concurs with the findings of the report and conditions have been recommended for ongoing management and protection of the bushland. Subject to conditions, the proposal is unlikely to have an adverse impact on the condition, ecological value and significance of the flora and fauna on the site.

Further assessment for tree removal and the management of bushfire asset protection zones has been addressed in Section 2.7.9 and 3.1.1 of this report.

2.2 State Environmental Planning Policy No. 44 – Koala Habitat Protection

The proposal has been assessed against the provisions of *State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP44)* which aims to encourage the proper

conservation and management of areas of natural vegetation that provide habitat for koalas. The provisions of *SEPP44* apply to the proposal as the site area is greater than 1 hectare. The proposal requires assessment of whether the site is a 'potential koala habitat', which is defined as areas of native vegetation where at least 15% of the trees on site constitute koala feed species.

The application includes a Flora and Fauna Impact Assessment prepared by Keystone Ecological as well as an Arboricultural Impact Assessment(AIA) prepared by Jackson Nature Works. The reports do not identify the presence of any koala feed trees listed under Schedule 2 of the Policy. The site is therefore not considered a 'potential koala habitat' and no further investigations are required for the purpose of *SEPP44*.

2.3 State Environmental Planning Policy (Infrastructure) 2007

The application has been assessed against the requirements of *State Environmental Planning Policy (Infrastructure) 2007*. This Policy provides State-wide planning controls for development adjoining busy roads and rail corridors. The development is located adjacent to Pennant Hills Road and is located above land that has been acquired for the Northconnex tunnel project. The following matters are required to be addressed pursuant to the *SEPP*.

2.3.1 Development on Proposed Classified Road

The Roads and Maritime Services(RMS) has acquired land for the Northconnex tunnel project beneath the development site. In accordance with Clause 100 (1)(b) of the Policy, development with a capital investment of more than \$150,000 on land reserved for the purpose of a classified road may be granted only with the concurrence of the RMS. The application was referred to the RMS who raised no objections to the proposal provided that:

- Any proposed buildings or structures are erected clear of the lands acquired for the Northconnex tunnel and Pennant Hills Road.
- The integrity of the Northconnex tunnel is not compromised.

The requirements of the RMS are recommended as a condition in Schedule 1. RMS advised that since the land acquired is approximately 54 metres below ground level, there would be no impact from the operation of the tunnel to the property. The proposed PAC building involves excavation to a maximum depth of 7m metres and would not impact on the integrity of the Northconnex tunnel. The proposal is acceptable with respect to Clause 100.

2.3.2 Development with Frontage to a Classified Road

Clause 101 applies to the proposal as the development site has frontage to Pennant Hills Road.

The objective of this Clause is:

- (a) *to ensure that the new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

The compliance of the proposal with the objectives of this Clause is discussed below.

2.3.2.1 Traffic Generation

A statement prepared by SECA solution was submitted with the application addressing traffic generation and parking demands from the development. The statement notes that the constrained nature of the site limits the opportunity for additional parking on the site and that there is limited opportunity for spill over parking within the adjacent road network. The statement noted the following with respect to the use of the PAC:

- The PAC is to be used for school related events only and will not be leased to any external groups.
- During normal school hours, the PAC will be used by students and teaching staff only with no parents or caregivers permitted to attend during school hours. In this regard, the use of the PAC during school hours would not increase the parking demand on the site.
- Performances open to the school community (including parents and caregivers) will occur outside normal school hours when the majority of the teaching staff will not be in attendance. The statement notes that after 4pm there are typically 95 car spaces vacant that would cater for performances after school hours.

Council's traffic assessment concludes that the existing parking provision on the site is acceptable to accommodate the proposed development subject to an operational condition. The operational condition would limit the use of the PAC to school related events in line with recommendations of the statement prepared by SECA solutions.

The application was referred to the RMS who raised no objections with respect to the impact of the development on Pennant Hills Road. The proposal is considered to be acceptable with respect to the safety, efficiency and on-going operation of Pennant Hills Road and satisfies Clause 101.

2.3.2.1 Vehicle Emissions

The proposed development would have frontage to a State Road and the impact of vehicle emissions and traffic noise is required to be considered.

An Air-Quality Report prepared by Air-Safe dated 12 August 2015 was submitted with application addressing the impact of vehicle emissions on the proposed development. The air-quality testing completed achieved complied all relevant National Environmental Protection Measures at a distance of 5 metres from Pennant Hills Road. The report concluded the 70 metre separation of the proposed PAC building from Pennant Hills Road is more than adequate to mitigate air-quality impacts.

The impact of traffic noise on the development is addressed below.

2.3.3 Impact of Road Noise on Non-Road Development

The subject land adjoins Pennant Hills Road which has an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the RMS website). Clause 102 therefore applies to the proposed PAC, comprising an addition to an existing educational establishment.

The PAC building would be setback more than 70 metres from Pennant Hills Road and 150 metres from Beecroft Road which adequate separation to ameliorate the impacts of road noise on the development. An Environmental Noise Assessment prepared by Acoustic Logic confirms that the traffic noise would not adversely impact on the proposed development as a result of this separation and the proposal is acceptable with respect Clause 102.

2.3.4 Traffic Generating Development

The development is not categorised as a traffic generating development in accordance with Clause 104 and Schedule 3 of the SEPP as it would not increase the current operational capacity of the school.

2.4 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The application has been assessed against the requirements of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. This Policy provides general planning considerations and strategies to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained.

Subject to the implementation of installation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would have minimal potential to impact on the Sydney Harbour Catchment.

2.5 State Environmental Planning Policy No. 55 – Remediation of Land

Under the provisions of Clause 7 of *State Environmental Planning Policy No.55 – Remediation of Land*, a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated or requires remediation for the proposed use.

A search of Council's records and aerial images reveals that the property has been used as an educational establishment for over 50 years with no record of any site contamination. Given this, the site would be suitable for the proposed use and no further assessment in relation to this Policy is required.

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

Clause 74BA of the *Environmental Planning and Assessment Act, 1979* states that a DCP provision will have no effect if it prevents or unreasonably restricts development that is otherwise permitted and complies with the development standards 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; facilitate development that is permissible under any such instrument; and achieve the objectives of land zones. The provisions contained in a DCP are not statutory requirements and are for guidance purposes only. Consent authorities have flexibility to consider innovative solutions when assessing development proposals, to assist achieve good planning outcomes.

2.7 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the *Hornsby Development Control Plan 2013 (HDCP)*. The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

Hornsby Development Control Plan 2013			
Control	Proposal	Requirement	Compliance
Site Area	4.25Ha	N/A	N/A
Number of Students	920 students	Existing	Unchanged
Scale - Gross Floor Area			
Existing buildings	9917m ²	N/A	N/A
PAC building	2646m ²		
Total	12,563m ²		
Site Coverage (overall)	25%	30%	Yes
Height	17.55m	8.5m	No
Capacity of PAC	220 seats	N/A	N/A
Setbacks of PAC			
• Front(Pennant Hills Road)	72m	6m	Yes
• Side (West)	23m	0.9m	Yes
• Rear (South)	110m	3m	Yes
Parking	115	Existing	Unchanged

As detailed in the above table, the proposed development complies with the relevant prescriptive measures stipulated within the HDCP other than the maximum building height

requirement. Below is a brief discussion on the relevant development controls under the *HDCP*.

2.7.1 Scale

Whilst the height of the development exceeds the 8.5m building height requirement, the scale, form, character of the development is considered acceptable for its intended use and relates to the site's constraints. The development will appear low in scale in relation to the convent on the adjoining property and the existing development on the school site.

On 2 December 2015, Council briefed the JRPP on the proposed development. The JRPP raised concerns with the appearance and treatment of the large retaining wall on the southern elevation. To respond to these concerns, the applicant provided further landscape drawings demonstrating additional plantings at the base of the retaining wall. The applicant submits that overtime, the appearance of the wall will be softened and camouflaged into the green valley. Furthermore, given the orientation of the retaining wall to the dense bushland, the retaining wall would not be visible from surrounding areas or adjoining properties.

2.7.2 Landscaping

A landscape plan was submitted with the application. The landscaping proposed around the new PAC building has been designed to fit with the design of the building and existing surrounding landscape and is acceptable.

2.7.3 Vehicular Access and Parking

A statement prepared by SECA solution was submitted with the application addressing the parking provision on the site and traffic generation from the development. The statement notes that the constrained nature of the site limits the opportunity for additional parking on the site and that there is limited opportunity for spill over parking within the adjacent road network. The document states that the PAC will be used for performances to which family and friends are invited, and that such performances will occur outside normal school hours.

Council's DCP does not have specific parking requirements for halls at educational facilities. However, the DCP does have a requirement of one car space for every 5 seats minimum for community halls. Based on 1 space per 5 seats, a total of 44 spaces would be required for the development. The site presently accommodates 115 car spaces. No additional parking areas are proposed as part of this application.

Council's traffic assessment concludes that the existing parking provision on the site is acceptable for the proposed development subject to compliance with operational conditions as follows:

- The PAC is to be used for school related events only;
- The PAC is not to be leased or hired to neighbourhood groups;
- During school hours the PAC is to be used only by students and staff, with no parents or carers attending events in normal school hours;
- Creative arts performances open to the school community are to occur outside normal school hours; and

- Performances open to the school community are not to commence before 4:30pm to allow time for staff to vacate the on-site parking spaces at the conclusion of classes.

The applicant has been advised of the above recommended operational conditions and has confirmed they are acceptable. The proposal is acceptable on traffic and parking grounds subject to conditions.

2.7.4 Waste Management

The proposal includes a Waste Management Plan for the construction and on-going operation of the proposal. The proposed development would not result in any change to the existing arrangements for the storage and collection of waste from the school.

2.7.5 Access and Mobility

The PAC is required to comply with the accessibility provisions in the Building Code of Australia and the provisions of the Disability (Access to Premises – Buildings) Standards 2010. The proposed PAC will incorporate continuous and unobstructed paths of travel in accordance with the standard.

2.7.6 Open Space

The PAC building is proposed in an area of the site that is not currently able to be used for active open space due to its steep slope. The roof slab of the PAC building will correspond with the level of the existing grassed oval and has been designed to function as an extension to the outdoor space. The proposal would increase the active open space available for students and is acceptable with respect to Part 7.1.5 of the *HDGP*.

2.7.7 Biodiversity and Bushfire Risk

Section 1C.11 'Biodiversity' of the *HDGP* prescribes that Bushfire Asset Protection Zones (APZs) should be located within buffer areas that protect significant vegetation, threatened species and populations.

A bushfire report prepared by Bushfire Code and Hazard Solutions Pty Ltd was submitted with the application which recommends a 24m wide APZ to be created to the west, south and east of the building. The application and the accompanying bushfire report were referred to the NSW Rural Fire Service (RFS) who applied a requirement for a 24m APZ to the south-west and a 31m wide APZ to the south-east.

In Council's bushland assessment, concerns were raised regarding the potential impact of the APZ on the Blue Gum High Forest. Clarity was sought over what trees would be removed to achieve the APZ. A meeting was held with the applicant and the applicant's ecological and bushfire consultants to discuss these concerns. It was agreed that the bushfire consultant would lodge an additional statement requesting the RFS review its requirement for a 31m wide APZ and instead apply the requirement for a 24m wide APZ. This reduction would ameliorate part of Council's concerns regarding ecological impacts. Further, details were to be put forward by the applicant demonstrating the best way to achieve an APZ through tree removal with the least and most reasonable ecological impact.

In line with the discussions held at the meeting, a letter from Bushfire Code and Hazard Solutions Pty Ltd and a separate statement from Keystone Ecological was submitted to Council. Upon consideration of the applicant's submission, the RFS agreed to reduce the APZ from 31m to 24m. Council supports the recommendations of the statement prepared by Keystone Ecological, that identified the most suitable trees to be removed to achieve the APZ with the least and most reasonable ecological impact.

Council's assessment concludes that the proposal is capable of achieving an APZ within the site without having a significant adverse impact on the critically endangered Blue Gum High Forest. A condition has been recommended for a Vegetation Management Plan to be completed for the site that addresses the maintenance of the APZ, weed control and replacement planting. Further conditions are recommended for protection of trees identified for retention and for an arborist to be on site to supervise works. Subject to conditions, proposal is acceptable with respect to biodiversity and Section 1C.11 of the *HDGP*.

2.8 Section 94 Contributions Plans

Hornsby Shire Council Section 94A Contributions Plan 2012 – 2021 applies to the development as the estimated costs of works is greater than \$100,000. An appropriate condition of consent is recommended requiring the payment of a contribution in accordance with the Plan.

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

3.1.1 Tree and Vegetation Preservation

The proposed location of the PAC would be at the north-western fringe of the bushland and south of the sporting fields. The footprint has been sited to mostly occupy the areas of the site that have been highly modified. The proposed development would necessitate the removal of 14 trees from the site to accommodate the building and the associated APZ.

The application includes a Flora and Fauna Impact Assessment prepared by Keystone Ecological dated August 2015 and addendum dated 18 February 2015. The report concludes that the proposal is unlikely to have any significant adverse impact on the threatened species or endangered ecological communities or their habitats. The report recommends that the Blue Gum High Forest on the site be managed under an approved Vegetation Management Plan, with its main focus being weed control. The management of the Asset Protection Zone for bushfire protection is to be included in the Vegetation Management Plan.

An Arboricultural Impact Assessment(AIA) prepared by Jackson Nature Works dated 3 September 2015 was submitted with the application assessing the health of the trees within proximity of the PAC and the impact of the development on trees. The report supports the

removal of trees to accommodate the development and makes a number of recommendations for tree protection during construction.

As discussed in Section 2.7.9 of this report, Council initially raised concerns with respect to the impact the APZ would have on the bushland, however these matters were resolved following a reduction in the width of the required APZ and further details demonstrating how the APZ would be achieved.

Council's assessment concludes that the proposed removal of trees is acceptable and is unlikely to have an adverse impact on the critically endangered Blue Gum High Forest on the site subject to compliance with a number of conditions. A condition for a Vegetation Management Plan(VMP) provides opportunity for weed control, bush regeneration and restoration activities on the site. The VMP is to include the replanting of 65 trees on the site to compensate for the loss of 14 trees from the site. Further conditions are recommended for protection of trees identified for retention and for an arborist on site to supervise works. Subject to conditions, proposal is unlikely to have any significant adverse ecological impact and is acceptable with respect to the natural environment.

3.1.2 Stormwater Management

A stormwater management plan prepared by Demlakian Engineering was submitted with the proposal. The stormwater management plan for the site has been designed to ensure that the runoff flow rate produced from the post development site during the 50 year storm event is less than the runoff flow rate produced from the pre-development site during the five year storm event. This will be achieved through the use of an underground onsite detention tank in the forecourt area. The plan also incorporates a stormwater quality treatment device. Council's engineering assessment of the proposal raises no objections the proposed storm water management system.

3.2 Built Environment

The PAC building would be well setback from Pennant Hills Road and would be adequately separated from the adjoining heritage item. The PAC building has been designed to relate to the site constraints, is of quality architectural design and is acceptable with respect to the built environment.

3.3 Social Impacts

The proposal would result in a positive social benefit to the locality in providing improved facilities at an existing educational establishment. The PAC building will add to the supply of educational and social facilities within the locality.

3.4 Economic Impacts

The proposal would have a positive economic impact on the locality in terms of employment generation during the construction phase of the development.

4. SITE SUITABILITY

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

The site is considered to be capable of accommodating the proposed development. The proposed development is consistent with the capability of the site and is acceptable. Whilst the site is not flood prone land, the site is subject to bushfire risk which is addressed as follows:

4.1 Bushfire Risk

The application is Integrated Development for the purpose of the Rural Fires Act 1997 and was referred to the NSW Rural Fire Service(RFS) for concurrence. The RFS raises no objections to the proposal subject to the conditions, including the maintenance of an APZ, compliance with design and construction standards and evacuation requirements. Subject to compliance with the General Terms of Approval issued by the RFS, the proposal is acceptable with respect to bushfire risk.

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 14/10/2015 and 13/11/2015 in accordance with the Notification and Exhibition requirements of the *HDGP*. During this period, no submissions were received. The map below illustrates the locations of the properties notified.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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5.2 Public Agencies

The development application was referred to the following agencies for comment:

5.2.1 Roads and Maritime Services

The application was referred to the RMS who raised no objections to the proposal as discussed in Section 2.3 of this report.

5.2.2 Rural Fire Service

The application was referred to the RFS who raised no objections to the proposal as discussed in Section 4.1 of this report.

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 criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. The PAC building will add to the supply of educational and social facilities within the locality. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

CONCLUSION

The application proposes the erection of a performing arts centre for an existing educational establishment.

The proposal has been assessed against the heads of consideration in Section 79C of the Environmental Planning and Assessment Act 1979. It is considered that the proposed development would not result in any unreasonable impacts and is suitable for the site. The Clause 4.6 variation submitted for the height variation of the development is considered well founded and is supported.

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. Site Plan
3. Floor Plans
4. Elevations & Sections
5. Landscape Plan

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 Plans:

Plan No.	Plan Title	Drawn by	Dated
DA000 – Rev A	Cover Sheet	Paynter Dixon	13/08/2015
DA001 – Rev A	Site Plan Overall	Paynter Dixon	13/08/2015
DA002 – Rev A	Site Analysis Plan	Paynter Dixon	13/08/2015
DA003 – Rev A	Site Plan Localised Building	Paynter Dixon	13/08/2015
DA110 – Rev A	Ground Floor Plan	Paynter Dixon	13/08/2015
DA111 – Rev A	First Floor Plan	Paynter Dixon	13/08/2015
DA112 – Rev A	Roof Plan	Paynter Dixon	13/08/2015
DA300 – Rev A	Elevation Plan	Paynter Dixon	13/08/2015
DA301 – Rev A	Elevations	Paynter Dixon	13/08/2015
DA350 – Rev A	Coloured Elevations	Paynter Dixon	13/08/2015
DA400 – Rev A	Sections A & B	Paynter Dixon	13/08/2015
340 – Rev B	Landscape Plan	Iscape	December 2015

341 –Rev A	Roof Terrace Plan	Iscape	August 2015
342 – Rev B	Sections	Iscape	December 2015
343 – Rev A	Overlaid Landscape Plan	Iscape	August 2015

Supporting Documentation:

Doc. No. / Ref.	Document No.	Prepared by	Dated
SW00– P2	Stormwater Management Drawings	Demlakian	July 2015
SW01 – P3	Ground Floor Stormwater plan	Demlakian	July 2015
SW02 – P2	Stormwater details	Demlakian	July 2015
SW03 – P3	Stormwater details	Demlakian	July 2015
-	Stormwater Report	Demlakian	29 July 2015
SW04 – P3	Sediment and Erosion Control Plan	Paynter Dixon	July 2015
-	Stormwater Report	Demlakian	29 July 2015
-	Arboricultural Impact Assessment	Jackson Nature Works	3 August 2015
-	Flora and Fauna Impact Assessment and additional letter	Keystone Ecological	August 2015 and letter dated 18/2/2016.
-	Geotechnical Report	JK Geotechnics	13 April 2015
-	Waste Management Plan	Paynter Dixon	August 2015
20150386.2	Acoustic Report	Acoustic Logic	21 July 2015
-	Air Quality Report	Airsafe	12 August 2015
1485	Statement of Environmental Effects	Coastplan consulting	August 2015
120469b	Bushfire Hazard Assessment Report	Building Code & Bushfire Hazard Solutions Pty Ltd	13 August 2015
-	Letter – Outcomes of Parking Study	SECA Solution	1 December 2015

2. Removal of Existing Trees

- a) This development consent permits the removal of trees numbered 1, 26, 26A, 26C, 26D 27, 28, 29, 30, 31, 32, 61A, D and E as identified in the Arboricultural Assessment Report prepared by Jacksons Nature Works dated 03/8/2015 and the Approved Site Plan No. DA003, dated 13/08/2015.
- b) The removal of any other trees requires separate approval in accordance with the Tree and Vegetation Chapter 1B.6 Hornsby Development Control Plan (HDCP).

3. Project Arborist

A Project Arborist is to be appointed in accordance with AS 4970-2009 (1.4.4) to provide monitoring and certification throughout the development process.

Details of the Project Arborist are to be submitted to Council and the Certifying Authority prior to the issue of a Construction Certificate.

4. Construction Certificate

- a) 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.
- b) A separate Construction Certificate must be obtained from Council for all works within the public road reserve under S138 of the *Roads Act*.
- c) A separate Construction Certificate must be obtained from Council for all works within drainage easements vested in Council.
- d) The Construction Certificate plans must not be inconsistent with the Development Consent plans.

5. Section 94A Development Contributions

- a) In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act, 1979* and the *Hornsby Shire Council Section 94A Development Contributions Plan 2014-2024*, \$117,000.00 must be paid to Council to cater for the increased demand for community infrastructure resulting from the development, based on development costs of \$11,700,000.
- b) The value of this contribution is current as at 23/03/2016. If this contribution is not paid within the financial quarter that this condition was generated, the contribution payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 94 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

$$\frac{\$C_{PY}}{CPI_{DC}} = \frac{\$C_{DC}}{CPI_{PY}}$$

Where:

$\$C_{PY}$ is the amount of the contribution at the date of Payment

$\$C_{DC}$ is the amount of the contribution as set out in this Development Consent

CPI_{PY} is the latest release of the Consumer Price Index (Sydney – All Groups) at the date of Payment as published by the ABS.

CPI_{DC} is the Consumer Price Index (Sydney – All Groups) for the financial quarter at the date applicable in this Development Consent Condition.

- c) The monetary contributions must be paid to Council:
- (i) prior to the issue of the Subdivision Certificate where the development is for subdivision; or
 - (ii) prior to the issue of the first Construction Certificate where the development is for building work; or
 - (iii) prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
 - (iv) prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.

Note: It is the professional responsibility of the Principal Certifying Authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.

Council's S94A Development Contributions Plan may be viewed at www.hornsby.nsw.gov.au or a copy may be inspected at Council's Administration Centre during normal business hours.

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

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

7. Sydney Water – Approval

This application must be submitted to *Sydney Water* for approval to determine whether the development would affect any *Sydney Water* infrastructure, and whether further requirements are to be met.

Building plan approvals can be obtained online via *Sydney Water Tap in™* through www.sydneywater.com.au under the Building and Development tab.

8. Dilapidation Report

A 'Dilapidation Report' is to be prepared by a 'chartered structural engineer' detailing the structural condition of the western adjoining property, Lot 2 DP 1042630, No. 449D Pennant Hills Road, Pennant Hills.

- a) To record the structural condition of all properties adjoining the approved development, a dilapidation report must be prepared by a suitably qualified structural engineer for inclusion with the application of the Construction Certificate.

9. Stormwater Drainage

- a) The stormwater drainage system for the development must be designed for an average recurrence interval (ARI) of 20 years and be gravity drained to the existing internal drainage system.
- b) The stormwater drainage system for the head wall must be designed in accordance with Council's *Civil Works – Design and Construction Specification 2005*.

10. 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 60 cubic metres, and a maximum discharge (when full) of 49 litres per second;
- b) Have a surcharge/inspection grate located directly above the outlet;
- c) Discharge from the detention system must 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.

11. 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. The Traffic Management Plan shall be submitted and approved by Council's Manager Traffic and Road Safety prior to the issue of a construction certificate. 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; and
- f) Pedestrian and cyclist access/safety.

12. Identification of Survey Marks

A registered surveyor must identify all survey marks in the vicinity of the proposed development. Any survey marks required to be removed or displaced as a result of the proposed development shall be undertaken by a registered surveyor in accordance with Section 24 (1) of the *Surveying and Spatial Information Act 2002* and following the Surveyor General's Directions No.11 – "**Preservation of Survey Infrastructure**".

13. Construction Traffic Management Plan

In order to enable unencumbered movement of traffic in the public road during construction works, a Construction Management Plan, including a Traffic Management Plan and scaled construction plans prepared by a suitably Chartered and Qualified Chartered Civil Engineer and Qualified Worksite Traffic Controller shall be prepared and submitted to Hornsby Shire Council for approval according to the following requirements:-

- a) A copy of the plans shall be submitted for consideration and written approval by Hornsby Shire Council prior to the release of the Construction Certificate.
- b) The plans shall detail the order of construction works and arrangement of all construction machines and vehicles being used at the same time during all stages.
- c) The CTMP plans shall be in accordance with the approved Development Application plans and the Development Consent conditions.
- d) In order to prevent injury, accident and loss of property, no building materials, work sheds, vehicles, machines or the like shall be allowed to remain in the road reserve area without the written consent of Hornsby Shire Council.
- e) The Plan shall be generally in compliance with the requirements of the Road and Traffic Authority's "Traffic Control at Worksites Manual 1998" and detailing:-
 - i) Public notification of proposed works;
 - ii) Long term signage requirements;
 - iii) Short term (during actual works) signage;
 - iv) Vehicle Movement Plans, where applicable;
 - v) Traffic Management Plans;
 - vi) Pedestrian and Cyclist access and safety;

- f) The plans shall indicate traffic controls including those used during non-working hours and shall provide pedestrian access and two-way traffic in the public road to be facilitated at all times.
- g) The plans shall include the proposed truck routes to and from the site including details of the frequency of truck movements at the different stages of the development. The plan shall also include details of parking arrangements for all employees and contractors.
- h) The Applicant and all employees of contractors on the site must obey any direction or notice from the Prescribed Certifying Authority or Hornsby Shire Council in order to ensure the above.
- i) If there is a requirement to obtain a Work Zone, partial Road Closure or Crane Permit an application to Hornsby Shire Council is to be made prior to the issue the Construction Certificate

14. Integrated Vegetation and Fire Management Plan

An *Integrated Vegetation and Fire Management Plan* shall be prepared for the Blue Gum High Forest within the Asset Protection Zone required for the performing arts centre and other adjoining areas identified for compensatory revegetation and weed control works.

The Plan shall include, but not be limited to the following:

- a) Strategies to manage, maintain and conserve the bushland including;
 - i) On-going weed control and suppression using bush regeneration methods.
 - ii) Habitat protection including hollow-bearing tree retention.
 - iii) The restoration of all disturbed areas using bush regeneration techniques.
- b) Strategies for management of the Asset Protection Zones in a manner that has the least impact on the natural environment and maintains indigenous vegetation. This shall be undertaken in consultation with a Bushfire Management Consultant.
- c) Include the replanting of 65 trees on the site.
- d) Hand Removal of Bushfire Fuel;
 - i) Any clearing for bushfire protection within the approved Asset Protection Zones shall be undertaken using manual methods including manual removal of dead timber, raking and removal of leaf litter (fine fuel), manual slashing of understorey vegetation such as a hand held brushcutter and other methods that ensure minimal environmental damage and erosion whilst maintaining the vegetation at a low fuel reduced state. Indigenous vegetation including trees

and shrubs shall be retained in partially thinned scattered clumps to ensure the vegetation is non-continuous. Underscrubbing is to retain 15 centimetres of groundcover vegetation (including grass and herbaceous species) and all vegetation greater than three metres in height is to be otherwise retained. No removal of native vegetation shall occur within 10 metres of a natural watercourse. Clearing is not permitted in bushland outside the asset protection zone. No mulch or garden waste is to be deposited in bushland.

- e) The key performance criteria are to read 'Noxious Weeds to be less than 2% cover at the end of each maintenance visit. Other weed species to be less than 4% cover at the end of each maintenance visit.'
- f) Management of overhanging trees close to residential and open space areas.
- g) Schedule of works including timeframes and responsibilities for management actions. Provide a cost schedule to undertake all rehabilitation actions, including maintenance.
- h) Erosion, sediment and stormwater runoff controls including the management of impacts of run-off from all impervious surfaces including pavement areas. Management and maintenance of approved storm water drainage areas.
- i) Appropriate map of the site.
- j) Details of qualifications and experience of company preparing the plan.
- k) Details of site monitoring including the submission of monitoring reports to Council of bushland management and restoration.
- l) All on-ground works must be managed by a suitably qualified bush regenerator or restoration ecologist who is to be a vegetation management specialist and to have at least 5 years experience in the management of native bushland and at least a TAFE Certificate III in Bush Regeneration or Conservation and Land Management – Natural Area Restoration qualifications.
- m) Include a nest box management plan and strategy to compensate the loss of fauna habitat. A minimum of ten boxes that include a variety of sizes suitable for microchiropteran bats, arboreal mammals and Gang-Gang Cockatoo shall be provided.

The Integrated Vegetation and Fire Management Plan shall be prepared and to the written satisfaction on Council's Natural Resources prior to the issue of a Construction Certificate.

Note: Council's Natural Resource Branch can be contacted on 02 9847 6542.

15. Environmental Site Management Plan

An Environmental Site Management Plan shall accompany the application of the Construction Certificate. This plan shall satisfy the relevant Objectives and Controls of the Hornsby Shire Council Development Control Plan 2013 and shall address the following:

- a) Actions and works to be employed to ensure safe access to and from the site and protection to be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery, and the like;
- b) The proposed method of loading and unloading excavation machines, building materials;
- c) Areas within the site to be used for the storage of excavated material, construction materials and waste containers during demolition / construction;
- d) Methods to ensure that material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways;
- e) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be certified by a Certifier accredited in civil engineering;
- f) The provision of temporary fencing to secure the work site (fencing, hoarding or awnings over public land require Council approval under the Roads Act);
- g) The control of surface water flows within and through the construction site to minimise erosion and movement of sediment off site;
- h) The type and location of erosion and sediment control measures, strategies to minimise the amount of soil uncovered at any time, the conservation of topsoil for re-use on site, the location and protection of stockpiles;
- i) Identify all trees that are to be retained and the measures proposed to protect them (including fencing, mulching, watering, erection of signs excluding access to the protection zone, etc), and identify areas Blue Gum High Forest to be protected;
- j) Detail the location of tree protection fencing to protect trees to be retained. Tree protective fencing must be installed in accordance with AS 4970-2009 (Clauses 4.3 and 4.4).

The Environmental Site Management Plan shall be prepared and to the written satisfaction on Council's Natural Resources prior to the issue of a Construction Certificate.

Note: Council's Natural Resource Branch can be contacted on 02 9847 6542.

16. Geotechnical Details

Details must be submitted with the application for a Construction Certificate demonstrating compliance with the recommendations within Part 4 of the Geotechnical Report prepared by JK Geotechnics dated 13 April 2015, relating to retention systems, footings and the ground floor slab.

17. Acoustic Details

Details must be submitted with the application for a Construction Certificate demonstrating compliance with the recommendations within Part 8 of the Environmental Noise Assessment, prepared by Acoustic Logic dated 21/07/2015, relating to external windows and the mechanical services plant.

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

- a) A sign must be erected in a prominent position on any site on which any approved work is being carried out:
 - i) Showing the name, address and telephone number of the principal certifying authority for the work;
 - ii) 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
 - iii) Stating that unauthorised entry to the work site is prohibited.
- b) The sign is to be maintained while the approved work is being carried out and must be removed when the work has been completed.

19. 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; and/or
- 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.

20. Toilet Facilities

- a) To provide a safe and hygienic workplace, toilet facilities must be available or be installed 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.
- b) Each toilet must:
 - i) be a standard flushing toilet connected to a public sewer; or

- ii) be a temporary chemical closet approved under the *Local Government Act 1993*; or
- iii) have an on-site effluent disposal system approved under the *Local Government Act 1993*.

21. Erosion and Sediment Control

To protect the water quality of the downstream environment, 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 may be issued for any non-compliance with this requirement without any further notification or warning.

22. Tree Protection Fencing

- a) Tree Protective Fencing must be installed in accordance with AS 4970-2009 to protect trees identified for retention.
- b) Certification must be provided by the Project Arborist to the Principal Certifying Authority stating that all required tree protection measures have been installed in accordance with AS 4970-2009.

REQUIREMENTS DURING CONSTRUCTION

23. Construction Work Hours

All works 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.

24. 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.

25. Street Sweeping

To protect the surrounding environment, Street sweeping must be undertaken following sediment tracking from the site along Pennant Hills Road, Pennant Hills during works and until the site is established.

The street cleaning services must undertake a street 'scrub and dry' method of service and not a dry sweeping service that may cause sediment tracking to spread or cause a dust nuisance.

26. Works Near Trees

- a) To protect trees to be retained, all required tree protection measures are to be maintained in good condition for the duration of the construction period.
- b) All works within the Tree Protection Zone of any tree required to be retained must be carried out under the supervision of an 'AQF Level 5 Arborist'.
- c) A certificate must be submitted to the principal certifying authority detailing the methods used to preserve these trees during the course of construction.

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 occurs within 4 metres of any tree to be retained.

27. Bushland Protection During Construction

To ensure the protection of bushland during construction, the following must be completed:

- a) The installation of 1.8 metre high chain wire fencing (or similar) outside the Tree Protection Zones of Blue Gum High Forest bushland to be retained as identified on Environmental Site Management Plan (prescribed by condition 15);
- b) All machinery to be cleaned of soil and debris before entering the site to prevent the spread of weeds and fungal pathogens.
- c) No material stock piles, no changes to soil aeration or hydrological capacity, no preparation of chemicals in adjoining areas, no open cut trenching, no placement of temporary buildings, no parking or movement of machinery, no spillage/disposal of building waste is to occur within the fenced off bushland
- d) The fencing shall allow access gate (with security locks) to allow bushland maintenance or other specific personnel to access environmentally sensitive areas
- e) The fencing shall include 'no entry' signage to inform construction personnel of the purpose of the fence as an environmentally sensitive area

Note: The site contains Blue Gum High Forest Critically Endangered Ecological Community under the 'Threatened Species Conservation Act 1995'. The Act prohibits the disturbance to threatened species, endangered populations and endangered ecological communities, or their habitat, without the approval of the 'Department of Environment and Climate Change' where such activities are not

authorised by a development consent under the 'Environmental Planning and Assessment Act 1979'.

Actions such as tree removal, understorey slashing or mowing, removal of dead trees within this vegetation would likely impact upon this endangered ecological community. Such action would qualify as illegally picking or disturbing the habitat and could render any person who carried out such action as LIABLE FOR PROSECUTION.

28. 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.

29. 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.

30. 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.
- b) A compaction certificate is to be obtained from a suitably qualified geotechnical engineer verifying that the specified compaction requirements have been met.
- c) This compaction certificate must be included with the application for an occupation certificate.

31. Excavated Material

All excavated material removed from the site must be classified by a suitably qualified person 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 be reported to the principal certifying authority prior to the issue of an Occupation Certificate.

32. Survey Report

A report(s) must be prepared by a registered surveyor and submitted to the principal certifying authority:

- a) Prior to the pouring of concrete at each level of the building certifying that:
 - i) The building, retaining walls and the like have been correctly positioned on the site; and
 - ii) The finished floor level(s) are in accordance with the approved plans.

33. Waste Management

- a) All work must be carried out in accordance with the approved waste management plan.
- b) Stockpiling, cutting and sanding must be performed a minimum of 10 metres from the shoreline and screened by sediment fencing.

34. Maintenance of public footpaths

Public footpaths must be maintained for the duration of works to ensure they are free of trip hazards, displacements, breaks or debris to enable pedestrians to travel along the footpath safely.

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.

35. Sydney Water – s73 Certificate

A s73 Certificate must be obtained from Sydney Water and submitted to the PCA..

Note: Sydney Water requires that s73 applications are to be made through an authorised Sydney Water Servicing Coordinator. Refer to www.sydneywater.com.au or telephone 13 20 92 for assistance.

36. Damage to Council Assets

To protect public property and infrastructure, any damage caused to Council's assets as a result of the construction or demolition of the development must be rectified by the applicant in accordance with Council's Civil Works Specifications. Rectification works must be undertaken prior to the issue of an Occupation Certificate, or sooner, as directed by Council.

37. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed drainage systems, water quality systems and on-site detention system.

38. Creation of Easements

The following matter(s) must be nominated on the plan of subdivision under s88E 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.

39. Water Saving Urban Design

A Water Saving Urban Design (WSUD) is to be constructed generally in accordance with the engineering report and plans prepared by Demlakian Engineering, dated 29/07/2015. The Water Quality Targets as detailed within the report and Hornsby Shire Councils DCP are to be achieved in the design and supported by a MUSIC model.

40. Certification of WSUD Facilities

Prior to the issue of an Occupation Certificate a certificate from a Civil Engineer is to be obtained stating that the WSUD facilities have been constructed and will meet the water quality targets as specified in the Hornsby Shire Councils DCP.

41. Damage to Council Assets

To protect public property and infrastructure, any damage caused to Council's assets as a result of the construction or demolition of the development must be rectified by the applicant in accordance with Council's Civil Works Specifications. Rectification works must be undertaken prior to the issue of an Occupation Certificate, or sooner, as directed by Council.

42. Completion of Landscaping

A certificate must be submitted to the PCA 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.

43. Certification by Project Arborist

Following the final inspection and the completion of any remedial tree works, the Project Arborist must submit to the Principal Certifying Authority documentation stating that the completed works have been carried out in compliance with the approved plans and the relevant conditions of consent. All certificates and documentation relating to the protection of trees must be included in the Final Certification.

44. Geotechnical Certification

A certificate from a Geotechnical Engineer is to be submitted to Principal Certifying Authority confirming that the recommendations within Part 4 of Geotechnical Report prepared by JK Geotechnics dated 13 April 2015 have been implemented.

OPERATIONAL CONDITIONS

45. 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).

46. Acoustic Management

The use of the premises must be managed in accordance with the recommendations of the Environmental Noise Assessment prepared by Acoustic Logic dated 21st July, 2015. A management plan must be prepared and adhered to in accordance with the recommendations of the acoustic report.

47. Operation of Performing Arts Centre

The Performing Arts Centre(PAC) is to operate in accordance with the following conditions:

- a) The PAC is to be used for school related events only.
- b) The PAC is not to be leased or hired to neighbourhood groups.
- c) During school hours the PAC is to be used only by students and staff, with no parents or carers attending events in normal school hours.

- d) Performances open to the school community are to occur only outside normal school hours.
- e) Performances open to the school community are not to commence before 4:30pm to allow time for staff to vacate the on-site parking spaces at the conclusion of classes.

GENERAL TERMS OF APPROVAL – NSW RURAL FIRE SERVICE

The following conditions of consent are General Terms of Approval from the nominated State Agency pursuant to Section 91A of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

48. Asset Protection Zones

At the commencement of building works and in perpetuity, the property around the building to a distance of 24 metres on the southern and eastern elevations and the distance between the building and property boundary on the northern and western elevations, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of '*Planning for Bushfire Protection 2006*' and the NSW Rural Fire Service's document '*Standards for Asset Protection Zones*'.

49. Water and Utilities

Water, electricity and gas are to comply with sections 4.1.3 and 4.2.7 of '*Planning for Bushfire Protection 2006*'.

50. Design and Construction

- a) New construction on the roof and on the eastern and southern elevations shall comply with sections 3 and 8 (BAL 40) Australian Standard 3959-2009 '*Construction of buildings in bushfire prone areas*' and section A3.7 of Addendum Appendix 3 of '*Planning for Bushfire Protection 2006*'.
- b) New construction on the northern and western elevations shall comply with sections 3 and 7 (BAL 29) Australian Standard 3959-2009 '*Construction of buildings in bushfire prone areas*' and section A3.7 of Addendum Appendix 3 of '*Planning for Bushfire Protection 2006*'.

Note: Further information concerning planning for bush fire protection can be found at: www.rfs.nsw.gov.au.

CONDITIONS OF CONCURRENCE – ROADS AND MARITIME SERVICES

The following conditions of consent are General Terms of Approval from the nominated State Agency pursuant to Section 91A of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

51. Roads and Maritime Services

- a) Any proposed buildings or structures are to be erected clear of the lands acquired for the Northconnex tunnel and Pennant Hills Road.
- b) The integrity of the Northconnex tunnel is not to be compromised.

Note: The subsurface of the property that was compulsory acquired by RMS for the Northconnex tunnel is identified as Lots 13 & 15 DP 1209584. The top of the substratum level is approximately 54 metres below ground level.

The RMS has resumed and dedicated a strip of land as road along the Pennant Hills Road frontage of the site.

The PAC building is sited clear of the lands acquired by the RMS.

- 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 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 and Vegetation Preservation

In accordance with Clause 5.9 of the *Hornsby Local Environmental Plan 2013* a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation protected under the Hornsby Development Control Plan 2013 without the authority conferred by a development consent or a permit granted by Council.

Notes: A tree is defined as a long lived, woody perennial plant with one or relatively few main stems with the potential to grow to a height greater than three metres (3M). (HDCP 1B.6.1.c).

Tree protection measures and distances are determined using the Australian Standard AS 4970:2009, "Protection of Trees on Development Sites".

Fines may be imposed for non-compliance with both the Hornsby Local Environmental Plan 2013 and the Hornsby Development Control Plan 2013.

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.