

## SYDNEY NORTH PLANNING PANEL

<b>Panel Reference</b>	2016SYW183
<b>DA Number</b>	DA/1072/2016
<b>LGA</b>	Hornsby Shire Council
<b>Proposed Development</b>	Demolition of an existing Chapel and hall and construction of a new Chapel and hall and associated landscaping works
<b>Street Address</b>	Lot 2005 DP 1088072 and Lot 74 DP 1067989, No. 284 Castle Hill Road and Nos. 146-200 David Road, Castle Hill
<b>Applicant</b>	Anglican Community Services C/-DFP Planning Pty Ltd
<b>Owner</b>	Anglican Retirement Villages - Castle Hill
<b>Date of DA lodgement</b>	2 September, 2016
<b>Number of Submissions</b>	One
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	Development with a CIV of over \$5 million Cost of Construction proposed = \$8,430,000
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Hornsby Local Environmental Plan 2013</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy No. 44 - Koala Habitat</li> <li>• State Environmental Planning Policy No.55 - Remediation of Land</li> <li>• State Environmental Planning Policy No. 20 - Hawkesbury-Nepean River</li> <li>• State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</li> <li>• Hornsby Development Control Plan 2013</li> <li>• Hornsby Shire Council Section 94A Development Contributions Plan 2014 – 2024</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Locality Plan</li> <li>• Site Plan</li> <li>• Demolition Plan</li> <li>• Basement Plan</li> <li>• Floor Plans</li> <li>• Elevations</li> <li>• Sections</li> <li>• Shadow Diagrams</li> <li>• Landscape Plans</li> <li>• Materials and Finishes</li> </ul>

	<ul style="list-style-type: none"> <li>• Clause 4.6 Variation</li> </ul>
<b>Report prepared by</b>	Caroline Maeshian
<b>Report date</b>	23 August 2017

#### **Summary of s79C matters**

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

#### **Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP* **Yes**

#### **Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

#### **Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **No**  
*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

#### **Conditions**

Have draft conditions been provided to the applicant for comment? **Yes**  
*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## ASSESSMENT REPORT AND RECOMMENDATION

### EXECUTIVE SUMMARY

- The application involves demolition of an existing Chapel and hall and construction a new Chapel and hall with associated landscaping works.
- The proposal complies with the development standards and controls of the *HLEP 2013* with the exception of the 8.5m height limit for which variation under Clause 4.6 is sought. The applicant has made a submission in accordance with Clause 4.6 'Exceptions to development standards' of the *Hornsby Local Environmental Plan 2013* to vary the Building Height development standard. The submission is considered well founded and is supported.
- One submission has been received in respect of the application.
- It is recommended that the application be approved.

### RECOMMENDATION

THAT the Panel assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to Clause 4.6 of the *Hornsby Local Environmental Plan 2013* and approve Development Application No. DA/1072/2016 for demolition of an existing Chapel and hall and construction a new chapel and hall with associated landscaping works at Lot 2005 DP 1088072 and Lot 74 DP 1067989, No. 284 Castle Hill Road and Nos. 146-200 David Road, Castle Hill be approved subject to the conditions of consent detailed in Schedule 1 of this report.

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### BACKGROUND

The site has been used as a retirement village since 1959. The Anglicare retirement village at Castle Hill supports a range of independent living units plus a range of residential aged care facilities for residents needing low and high care services.

The residents in the independent living units at Anglicare Castle Hill are supported by a 24 hour medical clinic, therapy centre, chapel, library, hairdressers, bowling green, kiosks, community halls, hydrotherapy pool, café, leisure centres, gymnasium, workshops and village bus.

On 26 July 2012, Sydney West Joint Regional Planning Panel approved Development Application No. DA/58/2012 for the demolition of existing buildings and construction of a Seniors Living development comprising 115 units, community facilities, health centre, cafe and basement car parking.

The approved application DA/58/2012 included a community lawn bowling greens with lower ground community car parking for 62 vehicles. The proposed development includes a vehicle and pedestrian ramp that would link the proposed lower ground car park of the new Chapel and hall building with the adjacent lower ground community car park approved under DA/58/2012.

On 5 September 2016, Development Application No. DA1072/2016 was lodged for demolition of the existing Chapel and hall and construction of a new Chapel and hall with associated landscaping works.

On 16 November 2016, Council wrote to the applicant raising concerns with respect to the design of the spire and roof form, vehicular movements, configuration of the foyer, the materials and finishes and the design of the windows and openings.

On 15 February 2017, the applicant submitted DA/1072/2016 additional Information to address Council's concerns raised on 16 November 2016.

On 8 March 2017, the Sydney North Planning Panel considered the matter at its meeting. The applicant was requested to revise the materials and finishes of the proposed building on heritage grounds.

Following consideration of various amendments to the material and finishes, on 19 July 2017, the applicant submitted amended plans addressing the issues raised by Council's heritage officer. In addition, the applicant submitted a revised landscape plan.

On 8 August 2017, Council wrote to the applicant raising concerns regarding the amended landscape Plan, on the basis that the revised plan is inconsistent with the approved Landscape Masterplan for the curtilage of Lober House and does not compliment the heritage values of the site.

On 10 August 2017, Council received advice that the applicant would be relying on the original landscape plan.

## **SITE**

The site is generally known as Anglicare Castle Hill and has an area of approximately 43.672 ha. It comprises 13 separate land titles including property Nos. 146-200 David Road (Lot 74 DP 1067989), No. 284 Castle Hill Road (Lot 1 DP 177433, Lot B DP 410898, Lot 1 DP 654242, Lot 2 DP 309991, Lot D DP 369584, Lot 10 DP 135926, Lot 2005 DP 1088072, Lot 72 DP 1067989, Lot 73 DP 1067989), No. 296 Castle Hill Road (Lot E DP 369584), Nos. 300 - 302 Castle Hill Road (Lot C DP 369584), and No. 304 Castle Hill Road (Lot A DP 410898).

The existing St James Chapel and Dover hall is located in a central location within the large retirement village community known as Anglicare Castle Hill. The existing building is located on Lot 2005 Deposited Plan 1088072 and Lot 74 Deposited Plan 1067989 and is bounded by Hilliard Drive which is an internal road within the estate.

The existing Chapel and hall building is located adjacent to Lober House and the recently constructed bowling greens, residential flat buildings, Café Wills, community and health centre. This area represents the central precinct of Anglicare Castle Hill site.

The site, known as the Mowll Village group, is listed as a heritage item of local significance under the provisions of Schedule D (Heritage Items) of the *Hornsby Shire Local Environmental Plan (HSLEP) 1994*. The significant elements within the property include "Lober House", "Tower House", "Gate House," entry gates, dairy, stables, garden buildings and grounds.

The south-western corner of the site has been mapped by Hornsby Shire Council as containing *Blue Gum High Forest*, an Endangered Ecological Community.

The Anglicare retirement village is bound on the east by David Road, on the west by Old Northern Road and on the south by Castle Hill Road.

## **PROPOSAL**

The proposal involves the demolition of the existing St James Chapel and Dover Hall building and construction of a new chapel and hall in a similar position as the existing building.

The proposed new chapel and hall comprises the following:

- On the ground level, there is the Chapel and hall, foyer common, kitchen and servery, 2 male and female toilet areas, meeting/family room, storage rooms, vestry and flowers storeroom. The ground level of the building is to be linked to the lower ground level via an internal staircase and lift. The main entry to the new building is proposed to be from the forecourt on the north western elevation of the building and include 6 scooter parking spaces.
- The proposed Chapel and hall would be connected to allow for flexibility in their use.
- The Chapel has a seating capacity for approximately 150 people and the hall a capacity of approximately 180 seats. The overall capacity of both spaces is approximately 400 persons. However, the two spaces are unlikely to be used concurrently and at their maximum capacity as the internal operable wall and internal acoustics are not designed for concurrent use.
- A 20 space lower ground level car park (including three disabled spaces) with 6 scooter spaces. Vehicular entry is via Hilliard Drive and egress via a new vehicular and pedestrian ramp connecting the proposed basement carpark with the adjacent bowling green basement car park that would lose two car parking spaces.
- The 400 seat capacity would only occur when both spaces and the separating corridor are used for infrequent events such as Anzac day, Easter and Christmas day services.
- Landscaping works are proposed to the forecourt immediately to the north west of the proposed Chapel and hall.
- The proposed Chapel and hall is to be positioned further to the south east of the existing building and therefore the square bordered by Lober House and Wills Café (and St James Chapel and Dover Hall) is proposed to be enlarged as a consequence to incorporate the new forecourt to the proposed Chapel and hall. Accordingly, paving and landscaping is proposed in this area. Furthermore, a simplification of paths, levels and landscaping within the square bounded by Lober House and Wills Café is proposed and would integrate with the proposed new forecourt landscaping works. Planting is proposed for the embankment surrounding the proposed chapel and hall to its north east and south east.

## **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. Council 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 community facilities 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 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 residents.*

The proposed development is defined as 'places of public worship' and 'community facilities' and is permissible in the zone with Council's consent. Whilst the use of the building is permissible in the zone, the proposed Chapel and hall would mainly be used in conjunction with the existing seniors housing development on the site.

Seniors housing is prohibited under the *HLEP* in the R2 Low Density Residential zone. However, the existing seniors housing development is permitted pursuant to Clause 4 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* where land is zoned for urban purposes and where residential development is permitted. The provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* prevail to the extent of any inconsistency with the *HLEP*.

### **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 proposed building exceeds the 8.5m building height development standard reaching a maximum height of 12.105m above existing ground level at the north eastern corner and a spire reaching a height of approximately 32m above existing ground level is proposed. The statement prepared by the applicant's planning consultant initially concluded that the spire can be considered as an architectural roof feature and is therefore not subject to the maximum building height provisions (pursuant to Clause 5.6 (2) of *HLEP*). However, the spire is not considered to be an architectural roof feature and is subject to the maximum building height provisions. Therefore, the applicant was requested to submit a revised Clause 4.6 variation.

### **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 application of the development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tender to hinder the attainment of the objectives of the zone.

The proposal has an overall spire height of 32 metres and a building height of 12.105 metres which exceeds the 8.5 metre maximum building height prescribed under Clause 4.3 "Height of buildings" stipulated under the *HLEP*. The objective of the Height of Buildings control is to permit building heights that are 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 applicant states that the proposed variation is considered to be consistent with the objectives of the control and is justified as follows:

- *The proposed St James Chapel and Dover Hall building varies in height from 7.75m at the building's south west corner to 12.105m at the building's north east corner. This variation in building height and also the non-compliance with the development standard is attributable to the topography of the land falling towards the east and north east and the inherent design of churches/chapels requiring greater floor to ceiling heights, larger internal volume and a uniform floor plate. The spire at 32m matches the height of the current spire and therefore does not introduce a new element in the landscape of the village. It is simply a replacement of the current spire and its spiritual role to the village.*

- *Views of the spire are predominantly from within the village. Distant glimpses of the spire will be possible from surrounding areas, but will be similar to the current situation and not result in any adverse visual impact.*
- *The proposed (and existing) St James Chapel and Dover Hall building occupies a central position at the Anglicare (ACS) Castle Hill site forming part of the central hub together with Wills Café, Lober House, bowling green, ACS Health Centre building and Community Centre building. As such, the proposed building does not immediately adjoin any ACS residential units and is also significantly removed from the boundaries of the ACS Castle Hill site, thereby ensuring that adverse amenity impacts upon surrounding residents and adjacent properties are negligible.*
- *In any event, many of the recently constructed residential and community buildings of ACS Castle Hill that were approved in DA/58/2012 as part of the Lober Square redevelopment, together with Lober House itself, are in excess of 8.5m in building height. In this respect, the ACS Health Centre building is 2-3 storeys in height, whilst the residential buildings on the north western side of Broughton Avenue are 3 and 4 storeys in height.*
- *Lober House achieves a roof building height of RL190.84, whilst the Lober 3 buildings that are currently under construction adjacent to St James Chapel and Dover Hall (to the south west) will achieve a roof building height of RL190.60. These buildings are significantly greater in height than the proposed St James Chapel and Dover Hall building that achieves a roof building height of RL184.140 (excluding the spire). Therefore, the main structure of the proposed building is in keeping with the scale of recently approved development and the emerging character of the locality.*
- *Strict compliance with this development standard is therefore both unreasonable and unnecessary in this instance and would result in a scale that is not in keeping with the emerging character and if the spire was reduced to a compliant height it would diminish the focal role of the chapel and result in an inferior design outcome for no discernible planning purpose.*

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

1. *the objectives 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 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 compliance with development standard is unreasonable or inappropriate due to 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.*

The proposed height variation and the submitted Clause 4.6 variation have been assessed against the established principle in the case of *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009*, by the Land and Environment Court. The judgement established that “*To accept a departure from the development standard, the context of the site should be considered and it should be demonstrated that the development promotes the proper and orderly development of land as contemplated by the controls applicable to the zone of the land, which is an objective of the Act (s 5(a)(ii)) and which it can be assumed is within the scope of the “environmental planning grounds” referred to in cl 4.6(4)(a)(i) of the LEP*”. In accordance with the views expressed in this decision, sufficient environmental planning grounds, unique to a site, must be demonstrated by the applicant for the Clause 4.6 variation request to be upheld.

The applicant’s submission to vary the Height development standard is considered well founded for the following reasons:

- The proposed spire would reach a height of approximately 32m above existing ground level. However, the proposed spire would be the same height as the existing Chapel spire.
- The proposed Chapel and hall building varies in height from 7.75m at the south west corner to 12.105m north east corner of the building. The non-compliance with the 8.5m building height limit of the building mainly due to the topography of the land which falls towards the east and north east. Strict compliance with the control would result in a stepped building platform which is not suitable for the proposed use as a Chapel and hall.
- The proposed location of the proposed spire is similar to the existing spire’s location and has been designed to address the main forecourt. The intention of the spire is to act as a visual reference point and landmark for the residents. A compliant spire would not be as visually prominent as the existing spire. It is considered to be no public benefit of strictly complying with the standard as this would result in the loss of the strong visual presence of the Chapel and hall on the Anglicare retirement village site.
- The proposed spire has been architecturally designed to provide a contemporary redesign of the original structure. The current spire is a significant feature of the Chapel, with the steep pitch roof being integrated with the existing solid spire. The proposed architecturally designed spire is triangular in shape with the lower half being clad in pure white, whilst the top half has an open structure that holds a crucifix at the apex. The proposed spire is consistent with the scale and prominence of the original structure in a more subtle form due to the partially open-frame structure.
- The proposed spire would not obstruct views from nearby buildings or public areas. There would not be unreasonable impacts resulting from solar access loss to any existing surrounding residential developments or public areas as a consequence of

the new building. Generally, shadows cast spread over the section of the development site, which is occupied by open spaces areas and road. The overall extent of shadowing impacts resulting from the proposal is not significant or unreasonable.

- The proposed spire does not achieve any additional floor space as a result of its height.
- The proposed building is in keeping with the scale of recently approved and constructed Lober Square developments and the emerging character of the locality. The building does not immediately adjoin any Anglicare residential units and is well removed from the perimeter of the Anglicare Castle Hill site.
- The proposed contemporary development would not impact on the heritage characteristics of the site, particularly Lober House which is in close proximity to the subject area.
- The proposal would not set an unacceptable precedent for the precinct, taking into account that the non-compliance height building is a result the sloping topography of the site and is limited to being located centrally within the Anglicare retirement village estate.
- It is considered that there is sufficient environmental planning grounds to vary the height non-compliance as outlined in the *Four2Five Pty Ltd v Ashfield Council 2015* judgement which stipulated that there must be “*sufficient environmental planning grounds to justify contravening the development standard*” as strict compliance would diminish the design quality of the building both internally and external by resulting in a stepped building platform which would not be suitable for its use as a Chapel and loss of the spire which acts as a significant location marker for the Anglicare community.

Considering the unique characteristics and context of the site, the proposal achieves a better environmental outcome and design excellence for the site in lieu of a design that would be compliant with the prescribed controls within the *HLEP* and the *HDCP*.

It is considered that the development in its current form achieves compliance with the objectives of the development standard “height”, complies with the zone objectives and achieves the principle established by the Land and Environment Court with regard to Clause 4.6.

Based on this assessment, it is considered that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case. Accordingly, the proposed variation to the permissible height standard for the site is supported by Council in this instance.

#### **2.1.4 Heritage Conservation**

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Council. The site is a heritage listed item which is part of the – *Mowll Village Group* (Item No. 255) which contains “*Lober House, Tower House and Gate House*” as listed under the provisions of Schedule 5 (Environmental Heritage) of the *Hornsby Local Environmental Plan 2013*.

The subject site is located in the vicinity of heritage items No. 3 Glenowen Way, Castle Hill (Item 258 – house and garden) and Oakhill College (Item No. 259) listed under the provisions of Schedule 5 (Environmental Heritage) of the *Hornsby Local Environmental Plan 2013*.

The site contains some well-preserved entry gates and grounds from circa 1890s which are of regional significance. The site also possesses remnant buildings from the Dixon Family as shown through a very unusual late federation servant's house which is representative of estate style living around circa 1925-1926.

The proposal would demolish the existing chapel and hall which were constructed in the 1960s. As the current chapel and hall are not considered to be of heritage significance and do not contribute to the overall heritage character of the site, heritage concerns have not been raised to the demolition of the structures.

The proposed height, bulk and scale would be characteristic of a modern and architecturally designed chapel. With the recent developments on the site such as the Wills Café and Health Centre, the contemporary development would not impact on the heritage characteristics of the site, particularly Lober House which is in close proximity to the subject area.

Heritage concerns were initially raised with respect to the proposed colour scheme, particularly the proposed 'orange' tones in relation to Lober House. Numerous meetings have been held with the applicant with respect to the materials and colour scheme of the proposed building.

On 24 July 2017, the applicant submitted a revised colour scheme which has resolved the previously raised heritage concerns. The proposed 'Flint Grey', for the terracotta panelling is a visually recessive natural colour tone that would complement the external finishes of the heritage listed Lober House, the new landscape setting and contemporary built context. The proposed 'Eternity Linen Pearl', for the perforated metal veil is similarly an improved natural tone to complement the natural tones of the surrounding built and landscape environment.

Therefore, no further concerns are raised on heritage grounds.

### **2.1.5 Earthworks**

Clause 6.2 of the HLEP states that consent is required for proposed earthworks on site. Before granting consent for earthworks, Council is required to assess the impacts of the works on adjoining properties, drainage patterns and soil stability of the locality.

A geotechnical investigation was prepared by JK Geotechnics dated 26 August 2016. The investigation makes a number of recommendations to be implemented at the detailed design stage 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 proposal is assessed as satisfactory with regards to Clause 6.2 of the *HLEP* subject to conditions.

### 2.1.6 Design Excellence

Clause 6.8 Design Excellence sets out matters for consideration to determine whether a proposed development exhibits a high standard of design. The Clause applies to development proposals on land with a proposed height over 29.6m. The spire of the proposed Chapel and hall building reaches RL 208.550. This is approximately 32m above existing ground level and therefore greater than 29.6m. Clause 6.8 states that development consent must not be granted to development to which this Clause applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.

Council has established a panel of suitably qualified architecture and urban design professionals to undertake a review of the design quality of relevant developments for building over 29.6m in height.

In accordance with the above provisions, the application was referred to Architects Johannsen and Associates to undertake an independent urban design review of the proposal. The urban design consultant raised the following issues:

- *Amend the roof form to both the Chapel and Hall to incorporate a more complementary spire expression located at the north-west corner of the complex, with features that are better aligned with the visual significance and the structural coherence of this element.*
- *The revised roof form should also take account of how the eastern elevation could be better integrated within the overall building envelope.*
- *Consider implications for vehicular movements that can include access and parking for a funeral hearse, and amend external works to suit.*
- *Reconfigure the planning to the main entry foyer and secondary foyer to reconcile awkward circulation, access and servicing, and improve the amenity and visual qualities of the entrance terrace.*
- *Review material selection and detailing for the external perforated panelling to help generate a more cohesive architectural expression, and avoid potential issues with framing and maintenance.*
- *Reconsider expression of windows and openings to the east elevation so that there is a better continuity of the architectural language around the building.*
- *The chapel and hall are proposed to incorporate a range of different materials such as terracotta cladding tiles, perforated screens and white cladding. Concern is raised to the proposed colours of the materials as they would detract from the heritage character of Lober House which incorporates heritage features such as face brick. Amended plans are required to be submitted to Council detailing a darker and recessive tone to lessen the impact of the contemporary design of the chapel and hall fronting Lober House.*

The applicant submitted a detailed response prepared by Jackson Teece Architects which explained the design approach to the Chapel and hall building. The Applicant's response has been reviewed by Architects Johannsen and Associates and further issues were raised regarding the design and location of the spire, material selection and detailing of the proposed external perforated screens and configuration of the windows and openings on the eastern elevation of the building.

A further submission was provided by Jackson Teece Architecture to the address the aforementioned issues raised by the urban design consultant. The submission provides a further explanation of the rationale behind the roof form, spire design and the stained glass window configuration.

Further concerns were raised by Council's Heritage Planning and the urban design consultant regarding the proposed colours of the materials. The applicant was requested to consider the use of a darker and recessive tone to lessen the impact of the contemporary design of the Chapel and hall fronting Lober House. Numerous meetings have been held with the applicant with respect to the materials and colour scheme of the proposed building. The applicant submitted a revised colour scheme which has resolved the previously raised heritage concerns and urban design concerns with respect to the proposed building.

## **2.2 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2007**

The State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2007 (*SEPP Seniors*) is the prevailing planning instrument for the development of housing for aged and disabled persons in NSW and provides for hostels, residential care facilities, self-contained dwellings and multi-storey dwellings, on land zoned for urban purposes.

The *SEPP Seniors* includes land use planning provisions, design principles, development standards and standards specific to meet the housing needs of seniors and people with a disability. The site is mainly used for seniors housing and the proposed Chapel and hall would be used in conjunction with the existing use of the site. The proposed development would not be inconsistent with the provisions of the *SEPP Seniors*.

## **2.3 State Environmental Planning Policy No. 55 - Remediation of Land**

*State Environmental Planning Policy No. 55 (SEPP 55)* requires that Council must not consent to the carrying out of development on land unless it has considered whether the land is contaminated or requires remediation for the proposed use.

The applicant submitted a detailed site investigation report prepared by DLA Environmental Services. The Investigation was prepared in relation to the Lober Square redevelopment comprising the community lawn bowling greens with lower ground community car parking. The Investigation included soil testing around the existing chapel and hall, therefore covering the land the subject of this proposed development. The investigation found that the "*site is suitable for its intended land use without risk to human health or the environment generally.*"

Subject to a recommended condition of consent, the proposal is satisfactory in respect to *SEPP 55*.

## **2.4 State Environmental Planning Policy (Infrastructure) 2007**

Clause 101(2) of *SEPP (Infrastructure)* states:

*“The consent authority must not grant consent to development on land that has a (2) frontage to a classified road unless it is satisfied that:*

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
  - (i) the design of the vehicular access to the land, or*
  - (ii) the emission of smoke or dust from the development, or*
  - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.”*

The Anglicare Castle Hill estate is located on the corner of Castle Hill Road and Old Northern Road, both of which are classified roads. Vehicle entrances to the estate are located on David Road, Castle Hill Road and Old Northern Road.

The Traffic and Parking Assessment prepared by Transport and Urban planning Pty Ltd states:

*“The traffic impacts associated with the new chapel and hall facility will be relatively minor and consistent with the current chapel and hall operation.”*

It is considered that the safety, efficiency and ongoing operation of the classified roads would not be adversely affected as a result of the proposal.

## **2.5 Sydney Regional Environmental Plan No. 20 – Hawkesbury – Nepean River**

The site is located within the catchment of the Hawkesbury Nepean River. Part 2 of this Plan contains general planning considerations and strategies requiring Council to consider the impacts of development on water quality, aquaculture, recreation and tourism.

Subject to the implementation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would comply with the requirements of the Policy.

## **2.6 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 (SEPP 44)* which aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas. The provisions of *SEPP 44* 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 included an Arborist Statement prepared by Stuart Pittendrigh. The statement does 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 *SEPP 44*.

## **2.7 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.

## **2.8 Hornsby Development Control Plan 2013**

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

<b>Hornsby Development Control Plan 2013 – Part 1 General Provisions and Part 7 Community Uses</b>			
<b>Control</b>	<b>Proposal</b>	<b>Requirement</b>	<b>Compliance</b>
<b>Height</b>	32m (Spire) 12.05m (Building Maximum)	8.5m	No*
<b>North Western Side Setback</b>	112m	5m	Yes
<b>Southern Side Setback to ILUs under construction</b>	46m	10m	Yes

Control	Proposal	Requirement	Compliance
Landscaping	>45%	45%	Yes
Car Parking	20 spaces	66 spaces	No*

As detailed in the above table, the proposed development complies with the prescriptive requirements for a place of worship with the exception of height and car parking. Below is a brief discussion on compliance with relevant development controls:

### 2.8.1 Site Requirements

The proposed development is located centrally within the Anglicare Retirement Village site.

The proposed building is accessed from an internal road within the Anglicare Retirement Village estate. The site would be a preferred location for a place of worship being within 400m walking distance of public transport facilities, in accordance with the *HDGP* site requirements.

The geotechnical investigations by JK Geotechnics and the Landuse Suitability Investigations prepared by DLA Environmental Services have both found that the site is suitable from a geotechnical and contamination perspective.

The proposal is acceptable in addressing the *HDGP* site requirement.

### 2.8.2 Scale and Height

The proposed Chapel and hall is a single storey building with basement car parking. The proposed building achieves a height of 12.105 metres and the spire of the proposed chapel and hall building reaches RL 208.550, matching that of the existing chapel and hall building.

The recently constructed residential and community buildings of Anglicare Castle Hill as part of the Lober Square redevelopment (DA/58/2012) are in excess of 8.5m in building height. The existing Anglicare Health Centre building located on Slade Avenue is 2-3 storeys in height, whilst the existing residential buildings within the Lober Square redevelopment are 3 and 4 storeys in height. It is considered that the proposed building would be in keeping with the height, bulk and scale of recently approved developments and would not impact on the heritage characteristics of the site.

### 2.8.3 Vehicle Access and Parking

The proposed new Chapel and hall would comprise 20 car spaces on the lower ground level car park (including three disabled spaces) with 6 scooter spaces. The principal entry to the new building is proposed to be from the forecourt on the north western elevation of the building and includes 6 scooter parking spaces.

Vehicular entry is via Hilliard Drive and egress via a new vehicular and pedestrian ramp connecting the proposed basement carpark with the adjacent bowling green basement car

park. The connection to the bowling green car park would result in the loss of two car parking spaces.

The proposed Chapel and Hall would be connected to allow for flexibility in their use. The Chapel has a seating capacity for approximately 150 people and the hall a capacity of approximately 180 seats. The overall capacity of both spaces is some 400 persons. However, the two spaces are unlikely to be used concurrently and at their maximum capacity as the internal operable wall and internal acoustics are not designed for concurrent use. The 400 seat capacity would only occur when both spaces and the separating corridor are used for infrequent events such as Anzac day, Easter and Christmas day services.

The *HDCP* has a parking requirement of 1 space per 5 seats minimum, (subject to a parking study), for places of public worship. In accordance with the *HDCP*, the proposed Chapel requires 36 spaces and the hall component 30 spaces.

Given that the proposed Chapel and hall are expected to be primarily used by residents of Anglicare Castle Hill, the car parking demand is expected to be significantly less than a place of public worship located outside of a retirement village. There is an internal village shuttle bus service that transports residents to various parts of the retirement village including the existing St James Chapel and Dover Hall. Hillsbus operates a number of bus services through the Anglicare Castle Hill site.

A further 22 approved car parking spaces are available in Hilliard Drive and a further 61 spaces in the adjoining basement (to be connected with the proposed basement). These spaces would be available for large events.

Having regard to the above factors, it is considered that the proposed and existing car parking would be sufficient to meet the expected car parking demand for the development.

### **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 Arborist Statement prepared by Stuart Pittendrigh had been submitted. The statement identifies 10 trees that would be removed or adversely affected by the proposed development.

All the trees to be removed are species that are exempt under the *Hornsby Development Control Plan 2013* and may be removed. Council's tree assessment has raised no objections to the removal of the trees subject to condition of consent requiring appropriate replacement planting.

The Landscape Plans indicates that new trees would be established around the proposed Chapel and hall to integrate the building and forecourt areas into the surrounding landscape context.

### **3.1.2 Stormwater Management**

The applicant provided revised Stormwater Concept Plans prepared by Northrop. The proposal involves the connection of the proposed development to an existing on-site detention system (OSD) and stormwater quality improvement devices. Council's engineering assessment raised no objections to the proposal subject to conditions.

## **3.2 Built Environment**

### **3.2.1 Built Form**

The proposed building is located within the Anglicare retirement village and would be adequately separated from the adjoining residential properties. The proposed development has been designed to be compatible with the existing buildings on the site with respect to bulk, scale and setback.

The proposed development relates to the site constraints and is acceptable with respect to the built environment.

### **3.2.2 Traffic**

A traffic and parking assessment has been submitted with the application. The report indicates that the proposal is a replacement of the existing chapel and hall and the services provided within the new facility. The Chapel services would mostly be attended by the existing residents of the retirement village. However, external visits could occur for funerals, Christmas, Easter or Anzac Day services.

Council's traffic engineering assessment of the traffic impacts of the development concludes that the proposal would have minor traffic impacts on the internal and external road network.

### **3.2.3 Noise and Vibration**

The applicant has submitted an Acoustic Assessment prepared by Acoustic Logic which includes an analysis of the background noise levels, noise emissions from the proposed building and the car park and the noise emissions from traffic on surrounding roads.

The nearest receivers are residential properties within the retirement village. The assessment assumes a maximum capacity of 400 people which could occur for Christmas, Easter or Anzac Day services. Otherwise a maximum of 150 people is assumed for other events and services (e.g. funerals, Sunday services, social events).

Predicted noise from the use of the building and car park was found to comply with the NSW Industrial Noise Policy subject to recommended management controls and acoustic treatments being implemented as a condition of consent.

The proposal would meet the *HDCCP* desired outcome to minimise noise impacts subject to recommended conditions.

### **3.2.4 Access**

An access report prepared by Accessible Building Solutions has been submitted that indicates the development is capable of providing compliant access. It is noted that accessible parking within the basement level and toilet facilities are proposed. Lift access from the basement is proposed to be provided to the ground floor level.

The proposal would achieve compliance with the access design provisions, subject to implementation of the recommendations of the Accessibility Review Report. A condition is recommended in this regard.

### **3.3 Hornsby Shire Council Section 94A Development Contributions Plan 2014-2024**

The applicant has sought exemption to development contributions pursuant to Section 2.8 of the plan which provides exemption as follows:

*“Development undertaken by a ‘social housing provider’ for the purposes of ‘seniors housing’ as defined in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004”*

The applicant has previously submitted documentary evidence which is satisfactory in respect to the definition of ‘social housing provider’ and the entity of Anglican Retirement Village as ‘a not-for-profit organisation with a direct provider of housing to tenants’.

Whilst the proposed Chapel and hall is permissible in the zone, the facilities are provided primarily for the residents of the Anglicare retirement village. The proposal development is considered to be ancillary and subsumed by dominant use of the site for seniors housing.

Therefore, an exemption from Section 94A Contributions would apply for the Chapel and hall on the Anglicare retirement village site.

### **3.4 Social Impacts**

The proposed development would make a positive social contribution to the local community.

### **3.5 Economic Impacts**

The proposal is not expected to create any negative economic impact.

## **4. SITE SUITABILITY**

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

The subject site has not been identified as bushfire prone or flood prone land. The site is considered to be capable of accommodating the proposed development. The scale of the proposed development is consistent with the capability of the site and is considered acceptable.

## 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 13 September 2016 and 29 September 2016 in accordance with the Notification and Exhibition requirements of the *HDCP*.

During this period, Council received one submission.

The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



**NOTIFICATION PLAN**

<ul style="list-style-type: none"> <li>PROPERTIES NOTIFIED</li> </ul>	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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One submission objected to the development. The grounds for objection are addressed as follows:

#### **5.1.1 Unacceptable height of the new building**

The public submission raised concern regarding the height of the building on the basis that the recently constructed residential flat buildings on the Anglicare retirement village site are visible and too high.

The proposal involves demolition of the existing St James Chapel and Dover Hall building and construction of a new chapel and hall in approximately the same location as the existing building. The proposed spire is a partially open framed structure which seeks to replicate the general form and height of the existing structure.

The proposed building is in keeping with the scale of recently approved and constructed Lober Square developments and the emerging character of the locality. The proposed building is well removed from the perimeter of the Anglicare Castle Hill site.

#### **5.2 Public Agencies**

The development application was not referred to any Public Agencies for comment.

### **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 proposal involves demolition of the existing Chapel and hall building and construction of a new chapel and hall with associated landscaping works.

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:**

- Locality Plan
- Site Plan
- Demolition Plan
- Basement Plan
- Floor Plans
- Elevations
- Sections
- Shadow Diagrams
- Landscape Plans
- Materials and Finishes
- Clause 4.6 Variation

## 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, 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:

*Architectural Plans prepared by Jackson Teece*

<b>Plan No.</b>	<b>Issue</b>	<b>Plan Title</b>	<b>Dated</b>
DA002	1	New Site Plan	18.08.2016
DA003	1	Demolition Plan	18.08.2016
DA004	2	Basement 1	31.01.2017
DA005	1	Ground Floor Plan	18.08.2016
DA006	1	Roof Plan	18.08.2016
DA007	3	North East Elevation	8.07.2017
DA008	3	South East Elevation	8.07.2017
DA009	3	North West Elevation	8.07.2017
DA010	3	South West Elevation	8.07.2017
DA011	1	Sections	18.08.2016
DA012	1	Sections	18.08.2016
DA013	1	Sections	18.08.2016
-	-	Schedule of Materials and Finishes	Received by Council on 24 July 2017

*Landscape Plans prepared by Site Image*

<b>Plan No.</b>	<b>Issue</b>	<b>Plan Title</b>	<b>Dated</b>
101	A	Landscape Plan	5.05.2016
501	A	Landscape Details	5.05.2016
502	A	Landscape Details and Indicative Plant Schedule	5.05.2016

*Stormwater Plans prepared by Northrop*

<b>Plan No.</b>	<b>Issue</b>	<b>Plan Title</b>	<b>Dated</b>
DA01	B	Site Plan	22.08.2016
DA03	B	Concept Stormwater Management Plan Upper Ground Level	22.08.2016
DA04	B	Concept Stormwater Management Plan	22.08.2016

<b>Document Title.</b>	<b>Prepared by</b>	<b>Dated</b>
Shadow Diagrams (Reference Drawing Nos. DA014, DA015, DA016 Issue 1)	Jackson Teece	18.08.2016
Plan of Detail and Level Survey (Reference Drawing Nos. 33880DT Sheets 3, 4, 5, 6, 9 and 10)	Lockley Land Title Solutions	13.04.2011
Assessment of Traffic and Parking Impacts (Reference No. 16089r)	Transport & Urban Planning Pty Ltd	25 August 2016
Erosion and Sediment Control Plan (Reference Drawing No. DA02 Revision B)	Northrop	22 August 2016
Typical Details (Reference Drawing No. DA05 Revision B)	Northrop	22 August 2016
Heritage Impact Statement	City Plan Services	August 2016

<b>Document Title.</b>	<b>Prepared by</b>	<b>Dated</b>
Design Excellence Statement	Jackson Teece	22 August 2016
Statement of Compliance Access of People with a Disability	Accessibility Building Solutions	8.08.2016
Landuse Suitability Investigation (Reference No. DL3609_S003285)	DLA Environmental Service	August 2015
Noise Impact Assessment (Reference No. 20161098.1/2908A/R3/RL)	Acoustic Logic	29 August 2016
Preliminary Geotechnical Assessment (Reference No. 25417LLet Rev 1)	JK Geotechnics	26 August 2016
Clause 4.6 Exception Request Statement	DFP Planning Pty Ltd	13 February 2017

## 2. **Removal of Trees**

- a) This development consent permits the removal of trees numbered 2365, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375 and 2376 as identified in the approved Landscape Plan prepared by Site Image and dated 5 May 2016.
- b) The removal of any other trees from the site requires separate approval by Council in accordance with Part 1B.6 Tree and Vegetation Preservation of the *Hornsby Development Control Plan, 2013 (HDCP)*.

## 3. **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.

4. **Amendment of Plans**

- a) The new play area adjacent to Café Wills is not approved by this consent and is to be subject of a separate Development Application.
- b) The amended plans must be submitted with the application for the Construction Certificate.

<b>REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE</b>
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5. **Building Code of Australia**

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

6. **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.
- b) *Telstra* - a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.

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 the following requirement:

- a) All parking areas and driveways must be sealed to an all weather standard, line marked and signposted;
- b) Car parking, loading and manoeuvring areas must be used solely for nominated purposes;
- c) Vehicles awaiting loading, unloading or servicing must be parked on site and not on adjacent or nearby public roads; and
- d) All vehicular entry on to the site and egress from the site must be made in a forward direction.

8. **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

#### 9. **Stormwater Drainage**

The stormwater drainage system for the development must be designed and constructed generally in accordance with Job No. NL151010 Drawing No. DA01, DA02, DA03, DA04 and DA05 Revision B dated 22.08.2016 by Northrop Engineers,

Council's *Civil Works – Design and Construction Specification 2005* and the following requirements:

- a) Connected directly to the existing on-site stormwater detention system and stormwater quality treatment devices provided in accordance with the requirements of the approved Notice of Determination for DA/1134/2015/A.

**10. Acoustic Treatment**

Acoustic treatment, including installation of mechanical plant, must be provided to the development in accordance with the recommendations contained within the Noise Impact Assessment prepared by Acoustic Logic document number 20161098.1/2908A/R3/RL dated 29 August 2016.

**11. Geotechnical**

The construction certificate plans must demonstrate compliance with the recommendations and construction specifications within the Geotechnical Assessment prepared by JK Geotechnics dated 26 August 2016.

**REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS**

**12. 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.

**13. 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.*

**14. 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*.

**15. 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.*

<b>REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION</b>
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**16. 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.

**17. Demolition**

To protect the surrounding environment, 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 any building contain asbestos material, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and measuring not less than 400mm x 300mm must be displayed in a prominent position visible from the street.

**18. 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.

**19. Street Sweeping**

To protect the surrounding environment, street sweeping must be undertaken following sediment tracking from the site along adjoining streets 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.

**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. Building Materials and Site Waste**

The filling or stockpiling of building materials, the parking of vehicles or plant, the disposal of cement slurry, waste water or other contaminants must be located outside the tree protection zones as prescribed in the conditions of this consent or the prescriptive measures of Part 1B.6.1 Tree Preservation of the Hornsby Development Control Plan, 2013, of any tree to be retained.

**22. Landfill**

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

- a) Prior to fill material being imported to the site, a certificate shall be obtained from a suitably qualified environmental consultant confirming the fill wholly

consists of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act, 1997* or material approved under the *Department of Environment and Climate Change's* general resource recovery exemption.

**23. 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.

**24. Construction Traffic Management Plan Compliance**

The development must be carried out in accordance with the submitted Construction Traffic Management Plan (CTMP).

**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.*

**25. 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](http://www.sydneywater.com.au) or telephone 13 20 92 for assistance.*

**26. Maintain Canopy Cover**

- a) The submitted Landscape Masterplan prepared by Site Image Pty Ltd drawing No 101 Issue A and dated 5 May 2016 must be adhered to.
- b) Location and Size of Plantings
  - i) Replacement trees must be located 4 metres or greater from the foundation walls of the approved development.
  - ii) The pot size of the replacement trees must be a minimum 100 litres and replacement trees must be maintained until they reach the height of 3 metres.
  - iii) All tree stock must meet the specifications outlined in '*Specifying Trees*' (Ross Clark, NATSPEC Books).
  - iv) Planting methods must meet professional (best practice) industry standards
- c) The suitably qualified person holding a Certificate III in Horticulture must submit to the principal certifying authority a statement confirming all

landscaping requirements has been completed in accordance with approved landscape plans and conditions of consent.

**27. 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.

**28. Creation of Easements**

The following matter(s) must be nominated on the plan of subdivision under s88B or 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, water quality treatment systems and outlet works as required by DA/1134/2015/A in favour of Council in accordance with Council's prescribed wording.

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

**29. 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](http://www.hornsby.nsw.gov.au).*

**30. Retaining Walls**

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

**31. External Lighting**

- a) To protect the amenity of adjacent premises, all external lighting must be designed and installed in accordance with *Australian Standard AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting*.
- b) Certification of compliance with this Standard must be obtained from a suitably qualified person and submitted to the PCA with the application for the Construction Certificate.

**32. Acoustic Certificate**

On completion of all works and prior to the issue of an Occupation Certificate the certifier is to be provided with a certificate from a qualified acoustic engineer/consultant certifying that all acoustic works, have been completed in

accordance with the recommendations contained in the Noise Impact Assessment prepared by Acoustic Logic document number 20161098.1/2908A/R3/RL dated 29 August 2016.

#### **OPERATIONAL CONDITIONS**

**33. Use of Premises**

The development approved under this consent shall be used for place of worship and not for any other purpose without Council's separate written consent.

**34. Site Management**

The use of the facility must be managed in accordance with the Noise Impact Assessment prepared by Acoustic Logic document number 20161098.1/2908A/R3/RL dated 29 August 2016.

**35. 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).

**36. Fire Safety Statement - Annual**

On at least one occasion in every 12 month period following the date of the first 'Fire Safety Certificate' issued for the property, the owner must provide Council with an annual 'Fire Safety Certificate' to each essential service installed in the building.

**- 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). (HDGP 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](http://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 prior to disturbing this material. It is recommended that a contractor holding an asbestos-handling permit (issued by *WorkCover NSW*) be engaged to manage the proper handling of this material. Further information regarding the safe handling and removal of asbestos can be found at:

[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

[www.nsw.gov.au/fibro](http://www.nsw.gov.au/fibro)

[www.adfa.org.au](http://www.adfa.org.au)

[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

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