

SYDNEY NORTH PLANNING PANEL

Panel Reference	2016SYW214
DA Number	DA/1114/2016
LGA	Hornsby Shire Council
Proposed Development	Demolition of a child care centre, alterations to Cherrybrook Village Shopping Centre comprising expansion of the retail floor space, addition of a first floor level to include offices, medical centre and gymnasium, extension to the car park to include 628 parking spaces with an additional vehicular entry in three stages.
Street Address	Lot 1 DP 816893, Nos. 41 – 47 Shepherds Drive, Cherrybrook
Applicant	Mirvac Real Estate
Owner	BNY Trust Company of Australia Limited
Date of DA lodgement	13/09/2016
Number of Submissions	3
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	CIV > 20million (\$36,950,666)
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • Threatened Species Conservation Act 1995 • State Environmental Planning Policy No. 55 - Remediation of Land • State Environmental Planning Policy (Infrastructure) 2007 • Sydney Regional Environmental Plan No. 20 - Hawkesbury Nepean (No. 2 - 1997) • Hornsby Local Environmental Plan 2013 • Hornsby Development Control Plan 2013 • Hornsby Shire Council Section 94 Development Contributions Plan 2014 - 2024
List all documents submitted with this report for the Panel's consideration	Locality Plan, Masterplan, Existing Floor plans, Demolition plan, Stage 1, Stage 2 and Stage 3 - plans, elevations, sections and views, Landscape Plans, Stormwater Plans, Traffic Report by Bitzios
Report prepared by	Aditi Coomar
Report date	13 September 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? **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? **N/A**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **No**

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 following is an assessment of a development application for demolition of a child care centre, alterations to Cherrybrook Village Shopping Centre comprising expansion of the retail floor space, addition of a first floor level to include offices, medical centre and gymnasium, extension to the car park to include 628 parking spaces with an additional vehicular entry in three stages.

The proposal complies with the provisions of the *Hornsby Local Environmental Plan 2013* and the Hornsby Development Control Plan 2013 having regard to permissible height and floor space ratio applicable to the site. The proposal is acceptable in terms of scale.

The development would result in a car park that would be well elevated above ground and result in a variable height retaining wall along the entire frontage of the site in addition to removal of a number of existing trees. The proposal includes satisfactory replacement planting and landscape treatment to screen the retaining wall.

The proposal is classified as a Traffic Generating Development under Schedule 3 of *SEPP (Infrastructure)*. The proposal complies with the *Roads and Maritime Services Guide to traffic Generating Developments*, with regard to the number of car spaces provided on site. The application is supported by a Traffic Impact Assessment Report which concludes that the traffic generated by the development would not have any adverse impact on the capacity of the intersection of Shepherds Drive and Kenburn Avenue subject to the recommended additional vehicular entry and reconfiguration/addition of car spaces within the development.

An independent traffic consultant has undertaken a peer-review of the Traffic Impact Assessment Report submitted with the application on behalf of Council. The traffic consultant also undertook pedestrian/traffic count surveys and an intersection analysis. The Consultant's report concludes that the proposal would adversely impact on the intersection of Shepherds Drive and Kenburn Avenue. Accordingly, signalisation of the intersection is recommended to avoid unacceptable queuing of vehicles and pedestrian safety in the vicinity of the development.

The proposal would necessitate the removal of 119 trees from the site. A number of trees proposed to be removed are consistent with Critically Endangered Ecological Species identified in the *Threatened Species Act 1995*. The application is supported by a Flora and Fauna Assessment Report which concludes that the trees within the frontage of the site are planted species. Therefore removal of the trees and replacement by suitable species would not result in the adverse impacts on the locally occurring endangered community. The application is assessed as satisfactory in this regard.

Clause 7 of *SEPP 55* states that Council must not consent to carrying out of any development unless it has considered if the land is contaminated and if so whether it is suitable or can be suitable (after remediation) for the proposed use. The site has been used extensively for commercial activities without any evidence of contamination.

Clause 7 of *SEPP 44* stipulates that before granting development consent, Council must be satisfied as to whether or not the land is a potential koala habitat. The application is supported

by a Flora and Fauna Assessment Report which concludes that the presence of koalas on the site is unlikely.

The application has been assessed as satisfactory against the requirements of *SEPP 19* as it would not impact on the significant bushland located within the adjoining sites zoned as RE1.

The site is within the catchment of the Hawkesbury-Nepean River. As such the land is subject to the provisions of *SREP 20*. The proposal is satisfactory having regard to the general planning considerations and the specific planning policies and recommended strategies listed in the instrument.

The geotechnical report submitted with the application concludes that the proposed excavation works may result in groundwater seepage and the application was referred to NSW Department of Primary Industries for an aquifer interference approval. The Public Authority advised that a controlled activity approval was not required in this case.

The site is identified as a bushfire prone land. The proposal was referred to NSW Rural Fire Service for comments. No objections have been raised subject to recommended conditions of consent.

Three submissions have been received in respect of the application.

It is recommended that the application be approved.

RECOMMENDATION

THAT DA/1114/2016 for the demolition of a child care centre, alterations to Cherrybrook Shopping Village comprising expansion of the retail space, addition of an upper level to include offices, medical centre and gymnasium, extension to the car park to include 628 parking spaces with an additional vehicular entry in three stages at Lot 1 DP 816893, Nos. 41 – 47 Shepherds Drive, Cherrybrook be approved pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act, 1979* subject to the conditions of consent detailed in Schedule 1 of this report.

BACKGROUND

On 21 May 2003, Council approved DA/2215/02 for an extension & refurbishment of Cherrybrook Village Shopping Centre including changes to streetscape and relocation of car spaces to a two level carpark in the northeast corner of the site above an existing service station.

Multiple development applications have been approved by Council since 2003, for the fitouts and reconfiguration of tenancies within the shopping complex.

On 31 August 2016, a pre-da meeting was held between the applicant and the Council officers to discuss the proposal to expand the shopping centre. During the meeting Council raised concerns regarding traffic generation, visual impact of the car park and loss of trees.

On 13 September 2016, the subject application was lodged with Council the initial application proposed the extension of the shopping centre in two stages and included a child care centre on the upper level.

Following an assessment of the application and receipt of comments from the public authorities Council sent letters to the applicant on 13 October 2016 and 14 November 2016.

In response to Council's concerns amended plans were lodged with Council on 22 December 2016.

Further concerns were raised by Council regarding traffic matters and a letter sent to the applicant in February 2017. Following the letter, meetings were held between the Council officers and the applicant to discuss concerns regarding the traffic generation.

On 3 April 2017, amended plans were lodged with Council which deleted the child care centre from the proposal and converted this space to a commercial development.

On 18 May 2017, Council requested further information on traffic issues and discrepancies in drawings. Council officers met with the applicant in June 2017 to further discuss the concerns.

In July 2017, Council appointed an external traffic consultant to conduct a peer-review of the submitted traffic report.

On 3 July 2017, amended plans were lodged with Council amending the staging (in three stages) and providing further information on the carpark. The amended proposal included a safe and accessible pedestrian connection to the ground level carpark.

On 24 August 2017 Council received advice from the independent traffic consultant.

The application is the subject of this report.

THE SITE

The site comprises one allotment known as Lot 1 DP 816893 (Nos. 41-47) Shepherds Drive and is located on the northern side of Shepherds Drive between Kenburn Avenue and Macquarie Drive, Cherrybrook. The property has an area of 2.954ha and generally a rectangular shape with splayed side boundaries.

The current improvement on the site includes a single storey shopping centre with 11,208m² of commercial floor space area including a Woolworths supermarket and car-parking located forward of the building line fronting Shepherds Drive. The car parking area is split level comprising an undercroft car park at the eastern end and an on-grade parking area fronting the shopping centre, connected by a ramp. An upper level car parking area is located above the undercroft parking and accessed via a ramp from the ground level.

A Caltex service station is located on the eastern corner of the site, partially under the upper level car park at the eastern end. A section of the lower ground car parking area, the elevated upper deck car park and the service station are located within a separate lot restricted in height (Lot 2, DP 816893) under stratum title. The service station is accessed via a separated driveway near the corner of Macquarie Drive and Shepherds Drive. The frontage of the site including the service station is approximately 360m.

A child care centre with at grade parking occupies the western side of the site. The remainder of the site comprises an open car park that accommodates 458 car spaces servicing the centre and includes an undercroft, upper and ground level car parks.

Vehicular access to the site is provided via a driveway at the south-western corner, from the round-about at the corner of Shepherds Drive and Kenburn Avenue. The driveway runs across the northern-boundary of the site and connects to the loading docks for Woolworths, located on the eastern side.

The subject site falls from north to south by approximately 2.5m to the edge of the existing car park, which is followed by a sharp drop to Shepherds Drive. Consequently, the car park is elevated above the road reserve, especially on the eastern side adjoining the service station, due to the fall of the road. The gabion wall, supporting the carpark of variable height (1m – 6m), extends across the northern side of Shepherds Drive and is setback between 2.5m – 16m from the vehicular carriageway. A vegetated sloping embankment currently exists between the gabion wall and the vehicular carriageway and includes in excess of 132 trees including a number of significant native trees.

The proposed works are restricted to Lot 1 DP 816893 and no works are proposed within the existing double storey car parking area at the eastern end of the site or within the service station.

Development within the immediate vicinity of the site comprises a mix of land uses. Bounding the western, northern end eastern boundaries A community and recreation precinct known as “Greenway Park” adjoins the northern end eastern boundaries of the site and accommodates open parkland, sporting ovals and associated parking to the north and east. Dense bushland adjoins the western boundary. A parkland and picnic area known as “The Lakes of Cherrybrook” is located on the opposite side of Shepherds Drive. Low density residential developments are located to the south and west of the Kenburn Avenue roundabout. A medium density residential development is located on the southern side of Shepherds Drive opposite the main entry to the site and adjoining the intersection. The Appletree Shopping Centre (neighbourhood shopping centre) is located approximately 1km north east of the site.

The proposed Cherrybrook Railway Station (proposed as part of the Sydney Metro Northwest) is currently under construction, approximately 3km south of the site. Local bus services operate throughout the area with bus stops located in Shepherds Drive and along the frontage of the site.

PROPOSAL

The proposal involves redevelopment of the Cherrybrook Village Shopping Centre shopping centre including demolition of a child care centre, alterations to Cherrybrook Village Shopping Centre comprising expansion of the retail floor space, addition of a first floor level to include offices, medical centre and gymnasium, reconfiguration and extension to the car park by adding a lower ground floor and a roof top car park with a new vehicular entry off Shepherds

Drive in three stages. The proposal would result in 18,897sqm of commercial (retail, office, medical centre and gymnasium) floor space with a total of 628 car spaces.

The car park is proposed to be extended towards the Shepherds Drive frontage with an increase in the height of the retaining wall supporting the car park (3m – 9m). The development would necessitate the removal of the majority of trees located within the existing vegetation embankment, due to the extension of the car park. The application proposes replacement planting all along the frontage including large trees intercepted by ground cover.

The proposed hours of operation would be in accordance with the operating hours of the existing centre as follows:

- Monday to Wednesday, Friday - 9 am to 5:30 pm
- Thursday - 9 am to 9 pm
- Saturday - 9 am to 5 pm
- Sunday & Public Holidays - 10 am to 4 pm

Signage is not included in this application. The development is proposed to be constructed in three stages. The details of the proposed works in each stage are provided below:

Stage 1

- Construction of a new vehicular entry along Shepherds Drive and ramp connecting to the ground level (shopping centre level);
- Reconfigure the ground level parking layout and line marking changes;
- Construction of a temporary pedestrian ramp along the western end of Shepherds Drive connecting to the ground level (shopping centre level);
- Removal of 125 trees; and
- Landscaping within the front setback including replacement trees.

Stage 2

- Partial extension of the lower ground level to the western side and reconfiguration of the vehicular entry ramp (constructed in stage 1) to connect to the newly constructed lower ground floor instead of ground floor;
- Reconfiguration of the car parking area at the ground level including construction of ramps and a round-about;
- Additional ramp proposed along the southern frontage providing access to the lower ground level carpark from the eastern end;
- Roadworks including provision of a right-turn bay on Shepherds Drive to facilitate access to the new ramp to the undercroft carpark;

- Completion of all landscaping works within the front setback between the site and Shepherds Drive.
- Demolition of the child care centre to expand on-grade car park on the western side;
- Extension to the Woolworths supermarket, internal alterations to the shopping complex, addition of three retail tenancies and service areas at the ground level; and
- Addition of a medical centre and offices on the upper level; and
- Associated stormwater works

Stage 3

- Extension of the lower ground floor car park to the west;
- Reconfiguration of the ground floor car park and minor change in levels to provide accessible pathways to the shopping centre;
- Extension of the shopping complex on the western side to incorporate an ALDI supermarket, two mini major retail tenancies plus additional specialist retail tenancies at the ground floor, associated driveway areas, loading docks and stormwater works;
- Construction of a gym and additional roof top parking at level one adjoining the medical centre and offices;
- Removal of the temporary pedestrian ramp (constructed in stage 1) and replace by stairs and lift to provide accessible entry from Shepherds Drive; and
- Reinstate landscaping along Shepherds Drive in front of the pedestrian entry and replacement planting.

The following table provides details of the development specifics and the available car parking after the completion of each stage of works:

Component	Existing	Stage 1	Stage 2	Stage 3	Nett loss/gain
Commercial floor space					
Gross Floor Area	11,208m ²	11,208 m ²	13,609 m ²	18,897 m ²	+7,689m ²
Gross Leasable Floor Area	9,636 m ²	9,636 m ²	11,420 m ²	15,448 m ²	+5812m ²
FSR	0.53:1	0.53:1	0.64:1	0.9:1	+0.37
Car Parking					
Lower Ground	99	99	173	289	+ 190
Ground	359	342	316	195	-164

Rooftop	0	0	0	144	+144
Total	458	441	489	628	+170

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 additional services to support a growing population and generating employment for up to 149 additional workers.

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 *B2 Local Centre* under the *HLEP*. The objectives of the B2 zone are:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.

- *To maximise public transport patronage and encourage walking and cycling.*

The proposed development is defined as 'shops', 'medical centre' and 'office premises' under the *HLEP*. The proposed development is permissible in the zone with Council's consent.

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 12m. The proposal would result in a maximum height of 11.96m and complies with this provision.

2.1.3 Floor Space Ratio

Clause 4.4(2) of the *HLEP* provides that the floor space ratio (FSR) on any land is not to exceed the maximum shown for the land on the Floor Space Ratio Map. The maximum permissible FSR for the precinct in accordance with the map is 1:1. The proposal would result in a maximum FSR of 0.9:1 after completion of Stage 3 and complies with this provision.

2.1.4 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Council. The subject site is located within the vicinity of two locally significant heritage items listed under the provisions of Schedule 5 (Environmental Heritage) of the *HELP*, being Nos. 69-85X Shepherds Drive and No.10X Beechwood Parade, Cherrybrook (Item No.310 – Greenway Park) and No.54X Shepherds Drive (Item No.311 – "The Lakes of Cherrybrook Reserve"), both listed under the provisions of Schedule 5 (Environmental Heritage).

The existing landscaped setting along the frontage of the subject site contributes to the setting of the listed 'The Lakes of Cherrybrook Reserve'. However, the removal of the existing trees within this landscaped setback would not have an adverse impact on the reserve as the proposal includes substantial replacement planting (100 additional trees) including both feature trees and boundary trees effectively screening the car park from the heritage item. The proposed extension to the shopping centre would not have an adverse impact on the view lines or character of the above heritage items. The proposal is assessed as satisfactory in this regard.

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. The proposal would involve excavation below ground up to 3m to extend the lower ground floor car park on the western side. The application is supported by a geotechnical report prepared by Douglas Partners.

The relevant matters are discussed below.

2.1.5.1 Ground water

The geotechnical investigations conclude that the groundwater level appears to be at level within the siltstone bedrock and seepage should be expected into the excavation. Whilst the accurate estimate of the likely extent of seepage could not be made at this stage, the report recommends that based on the permeability test results, ground water seepage is anticipated to be less than 3 ML/year (or 0.1 L/s) for excavation up to 3m and should be readily handled by sump and pump measures. Notwithstanding, monitoring of flow during the early phases of excavation below the groundwater table is recommended to assess long term drainage requirements.

Given that there is a possibility of aquifer interference, the application is classified as an Integrated Development under Section 91 of *the Act* requiring an aquifer interference approval pursuant to the *Water Management Act 2000*. The application was referred to the NSW Office of Primary Industries in this regard and it was advised that a controlled activity approval was not required for the proposed works subject to the following recommendations:

- *Temporary dewatering over 3ML may require a water licence which should be obtained prior to commencement of construction works; and*
- *The proposal must not incorporate the provision for the permanent or semi-permanent pumping of groundwater seepage from below ground areas. A fully tanked structure must be used for this purpose.*

The above requirements have been recommended as conditions of consent.

2.1.5.1 Excavation works

The geotechnical report includes recommendations for excavation methods, temporary batters, wall and pile details, ground anchors, construction of retaining walls adjoining the Caltex service station, vibration monitoring, groundwater monitoring and disposal, foundation design, floor slab design and excavation support.

A condition is recommended for the proposed development to be constructed in accordance with the recommendations of the geotechnical report. Conditions of consent are also recommended requiring use of rock saws only wherever practicable and that excavation is not to occur between 12-1pm Monday to Friday, Saturdays, Sundays or public holidays.

2.1.6 Terrestrial Biodiversity

Clause 6.4 of The Hornsby Local Environmental Plan (HLEP) 2013 applies to land identified as "Biodiversity" on the Terrestrial Biodiversity Map. A small portion of land identified as Biodiversity is located in the southwest corner of the site. The matter is discussed in Section 2.5 of this report.

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

State Environmental Planning Policy No.44 Koala Habitat Protection (SEPP 44) applies to the subject site as the area of the site exceeds 1ha.

Clause 7 of SEPP 44 stipulates that before granting development consent, Council must be satisfied as to whether or not the land is a potential koala habitat. The application is supported by a Flora and Fauna Assessment Report which concludes that the presence of koalas on the

site is unlikely. Therefore, taking into consideration the findings of this report and the characteristics of the site, being an existing shopping centre, it is considered that the site is not a potential koala habitat. No further assessment in this regard is necessary.

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

State Environmental Planning Policy No. 55 (SEPP 55) requires that consent must not be granted 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.

The shopping centre has been refurbished in accordance with DA/2215/2002. During the construction works, no contamination has been encountered. Given the history of the site, it is considered that the site is unlikely to be contaminated and no further reports have been requested in this regard. A condition of consent recommends that Council be notified of any soil contamination or asbestos encountered during construction works.

2.4 State Environmental Planning Policy No. 19 – Bushland in Urban Areas

The application has been assessed against the requirements of State Environmental Planning Policy No. 19. This Policy provides State-wide planning controls requiring that consent must not be granted to the carrying out of any development on land adjoining bushland zoned or reserved for public open space purposes unless it has considered the need to protect and preserve the bushland having regard to the aims of this Policy.

The site adjoins bushland zoned as open space RE1 – Public Recreation, named Lakes of Cherrybrook and Greenway Park. The ‘Lakes of Cherrybrook’ accommodates trees that form part of a mapped Blue Gum High Forest (BGHF) Endangered Ecological Community (EEC) listed under the *Threatened Species Conservation Act 1995*. The proposed works and removal of trees within the front setback of the site would not have any unreasonable impact on the adjoining bushland zoned as public open space and accordingly, the proposal complies with the aims of *SEPP 19*.

2.5 Threatened Species Conservation Act 1995

The subject site and the surroundings accommodate two communities, and eight fauna species listed under the *Threatened Species Conservation Act 1995* (*TSC Act*) that either occur or have potential to occur on the site and may be affected by the proposal. The vegetation is consistent with Blue Gum High Forest (BGHF) critically endangered ecological community (CEEC) and Sydney Turpentine Ironbark Forest (STIF) endangered ecological community (EEC) listed under the *TSC Act*. The proposal would result in the removal of 33 trees that are characteristic to BGHF and STIF. The matters in relation to tree removal and the ecological impacts are discussed in Section 3.1 of this report.

Assessment of significance has also been undertaken for the following fauna species that have the potential to occur within the subject site and listed as vulnerable under the *TSC Act*:

- *Pteropus poliocephalus* (Grey-headed Flying-fox);
- Cave-roosting microbats; and

- *Hollow-roosting microbats.*

The results of this assessment concluded that the proposal is not likely to have a significant impact on these species.

2.6 State Environmental Planning Policy (Infrastructure) 2007

The application has been assessed against the requirements of State Environmental Planning Policy (Infrastructure) 2007 (the *SEPP*). This Policy contains State-wide planning controls for developments adjoining busy roads and railways and traffic generating development. The following matters are required to be considered pursuant to the *SEPP*.

2.6.1 Traffic Generating Developments

The development is classified as a Traffic Generating Development in accordance with Clause 104 and Schedule 3 of *SEPP (Infrastructure)* as it would result in a development that would have ancillary parking accommodation of more than 200 vehicles.

The development complies with the minimum number of car spaces required to be provided on-site pursuant to the Roads and Maritime Services guidelines and no concerns are raised by Council regarding the parking provision within the site. The proposal was referred to Roads and Maritime Services (RMS) for concurrence in accordance with the provisions of the *SEPP*. The following comments were received from RMS:

- *A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate; and*
- *The proposed development will generate additional pedestrian movements in the area. Pedestrian safety is to be considered in the vicinity.*

A Traffic Impact Assessment Report has been submitted with the proposal which provides an estimate of the likely traffic to be generated by the development, SIDRA analysis of the Shepherds Drive and Kenburn Avenue intersection and a pedestrian count survey. The report concludes that subject to the reconfiguration of the car parking layout, addition of a new vehicular entry and internal ramps providing access between the levels would result in improvement of the current intersection capacity and would satisfactorily cater for the traffic generated by this development. The proposal would also provide a safe pedestrian environment due to the additional pedestrian access points.

Council has engaged an independent traffic consultant to peer-review the submitted traffic report. The consultant's report includes details of the existing traffic conditions, independent traffic and pedestrian surveys, analysis and modelling of the intersection and prediction of future conditions based on the additional floor area and traffic generated by the proposed redevelopment. The Consultant's report recommends the upgrade of the intersection of Shepherds Drive and Kenburn Avenue and provision of traffic control signals to facilitate an appropriate level of service for the users accessing the shopping centre and to provide safe pedestrian access from the opposite side of Shepherds Drive, in accordance with RMS requirements, prior to the commencement of Stage 3 works.

The relevant matters in relation to traffic generation and pedestrian safety have been discussed in Section 3.2.2 of this report.

2.7 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.

2.8 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.

2.9 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
Height	2 storeys – 11.96m	3 storeys - 12m	Yes
Floor Space Ratio	0.9:1	1:1	Yes
Front setback	2.7m – 10m	0m	Yes

Side setback (east)	Existing retained	0m	Yes
Side setback (west)	10m	0m	Yes
Rear setback	Existing retained	0m	Yes
Car Parking	Stage 2- 489 spaces	Stage 2 -405 spaces	Yes
	Stage 3 -628 spaces	Stage 3- 542 spaces (Ref: RMS guide)	Yes
Motorcycle parking	16 spaces	12 spaces	Yes
Bicycle parking	24 spaces	30 spaces	No
Accessible spaces	10 spaces	7 spaces	Yes

As detailed in the above table, the proposed development does not comply with a number of prescriptive requirements within the *HDGP*. The matters of non-compliance are detailed below, as well as a brief discussion on compliance with relevant desired outcomes.

2.9.1 Commercial Centre Hierarchy

The *HDGP* stipulates that the smaller local centres such as the subject site should be the preferred location for small and medium scale commercial/retail uses that serve the local community and only have limited office and bulky good retail function.

The Economic Impact Study submitted with the application concludes that the proposed development would provide residents with broadened supermarket provision and a wider range of retail facilities, conveniently located with enhanced parking and access arrangements. The extension of choice would also promote greater competition and better services. The development of an improved local retail centre will reduce the need for trade area residents to undertake shopping trips at more distant retail centres.

It is considered that the redeveloped shopping centre would continue to act as a local centre with improved services, thus reinforcing the role and function of the centre in the hierarchy.

2.9.2 Scale

The proposed development would result in a part two storey shopping centre with a maximum height of 11.96m above ground. The proposal would result in a floor space ratio of 0.96:1 which complies with the HELP requirements.

2.9.3 Setbacks

The development retains the existing setbacks along the eastern and northern boundaries. The single storey building along the western boundary would be setback from the adjoining open space. The proposed setbacks are considered acceptable. The impact of the proposed front setback on the streetscape is discussed in Section 2.9.2 of this report.

2.9.4 Overshadowing

The submitted shadow diagrams demonstrate that the proposed development would have no overshadowing impacts on the surrounding residential community or the adjacent heritage listed parkland.

2.9.5 Landscaping

The landscaping provisions of the *HDCP* do not prescribe any landscaping requirements for the subject site.

The proposal would result in a reduction for the vegetative embankment within the front setback due to the extension to the car park. Detailed landscape plans have been submitted demonstrating that the available deep soil zone between the car park and the front boundary would be appropriately landscaped with canopy trees (58) intercepted by small trees (56), shrubs and ground cover. Additionally landscaped patches have also been proposed within the car park area wherever possible.

A green wall is proposed at the front entry to the site in conjunction with the stage 3 works. The wall would comprise stainless steel trellis with climbers.

Council's assessment of the landscape plan concludes that the proposed landscape works are reasonable considering the constrained area of the site and the proposal is acceptable in this regard. The details of the green wall have been assessed as satisfactory.

2.9.6 Vehicular Access and Parking

2.9.6.1 Vehicular Access

The following vehicular access points have been provided to service the development:

- The development proposes to retain primary access to the site via the roundabout at the intersection of Shepherds Drive and Kenburn Avenue. The car parking area at the ground level has been reconfigured to allow additional queuing of vehicles within the site.
- An additional two way vehicular entry ramp (10m wide) is proposed on the eastern side of the existing driveway providing direct access to the lower ground floor car park from Shepherds Drive to reduce queuing at the intersection of Shepherds Drive and Kenburn Avenue. The ramp would be constructed partly in Stages 1 and 2 of the

development. A right-turn bay has been proposed on Shepherds Drive to allow vehicular entry to this section of the site.

- Internally within the ground level car park, a new round-about and two one way ramp connecting to the lower ground floor would be constructed during stage 2 works to allow efficient vehicular movement within the centre.
- During the construction of works pursuant to Stage 3 of the development, a further two-way ramp would be constructed between the ground level and the roof top car park.
- Heavy Vehicles servicing the supermarkets and the retail tenancies would access the site via the existing roundabout. No changes are proposed to the loading docks servicing Woolworths. Additional loading docks are proposed on the western side of the centre to service ALDI and the other retail tenancies. The application includes swept path details of Heavy Rigid Vehicles (HRV) and 19m long Articulated Vehicles (AV) which demonstrate that all vehicles would enter and exit the site in a forward direction.

Comment: Council's assessment of the additional vehicular access to the site, the reconfigured areas and the internal ramps is satisfactory in terms of turning areas and widths.

The turning areas for HRVs, AVs and loading dock provisions are assessed as satisfactory.

However, the vehicular entry from the roundabout at the intersection of Shepherds Drive and Kenburn Avenue is not considered to be satisfactory and would result in detrimental impact on the road network, post redevelopment works. Accordingly, upgrading of this intersection and signalisation has been recommended. The matter is discussed in detail in Section 3.2.2 of this report.

2.9.6.2 Pedestrian Access

Currently, pedestrian access to the site is provided via the footpath along the southern frontage adjoining Shepherds Drive. Additionally pedestrian crossings are provided within the car park area. The current pedestrian access provisions are not satisfactory.

The application proposes the additional pedestrian connections to improve the current situation:

- An accessible pedestrian ramp providing direct access from Shepherds Drive to the ground level car park during the construction works for Stages 1 and 2;
- This pedestrian ramp would be replaced by stairs and a lift providing access to both the lower ground level car park and the ground level car park from the road, at the completion of Stage 3 works;
- A satisfactory pedestrian crossing has been proposed connecting the footpath on the western side to the ground level car park and providing direct access to the centre;
- Additional pedestrian crossings are proposed to connect the lift to the centre at ground level; and

- Travelators and lifts are proposed internally within the centre providing accessible connection to all levels.

Comment: The proposed pedestrian connection to the shopping centre from the northern side of Shepherds Drive is assessed as satisfactory. The above elements of the design would provide safe pedestrian entry from the bus stop at the frontage and internally within the site.

However, no provision has been made for safe crossing of the pedestrians accessing the shopping centre from the southern side (opposite side) of Shepherds Drive. The applicant submits that the existing pedestrian refuge would provide safe and satisfactory access for all pedestrians. Council does not consider that the proposal achieves safe pedestrian access for elderly and disabled persons to the centre from all directions and accordingly does not satisfy RMS requirements with regard to pedestrian safety. Consequently signalisation of the intersection is recommended which would allow safe crossing of pedestrians accessing the shopping centre.

Additionally, it is also noted that the bus stop on the southern side of Shepherd's Drive (opposite the entry to the site) currently does not include a bus shelter. As per the applicant's report, the parking provisions within the centre are based on lower rates of the RMS guidelines as the redeveloped site would be partly dependent on public transport. Given the nexus, it is considered that a bus shelter should be provided on the southern side of Shepherds Drive to allow an upgraded, safe and accessible connection for all public transport users to the proposed shopping village in the future.

The proposal is assessed as satisfactory subject to implementation of the above requirements for installation of signals and upgrade of the bus shelter prior to completion of the works.

2.9.6.3 Parking

Parking provision within all levels of the shopping centre is in accordance with the minimum number of car spaces prescribed by the *RMS Guide to traffic Generating Developments 2002*. The application is assessed as satisfactory in this regard.

Motorbike and bicycle spaces have been proposed at the ground level to cater for various modes of transport. A condition of consent recommends that 30 bicycle spaces be provided at the ground level to comply with Council's requirements.

2.9.7 Accessibility

The development proposes accessible pathways connecting all levels of the shopping centre. An accessible pedestrian entry, comprising a lift and stairs, has been proposed from Shepherds Drive. Accessible spaces are proposed within the centre, directly connected to the building.

However, the proposal does not provide any suitable provision for accessible entry to the centre from the opposite side of Shepherds Drive due to the lack of pedestrian crossing or signals. The matter is discussed later in this report.

2.9.8 Waste Management

The proposal would continue utilising the existing waste management provisions and is assessed as satisfactory in this regard.

2.9.9 Crime Prevention

A Crime Prevention Consultancy Report has been submitted with the application. The report states that the proposed design, circulation areas and access/egress points would comply with the Crime Prevention through Environmental Design (CPTED) Principles subject to the incorporation of the following:

- Re-design lighting, signage and appropriately secure plant and equipment throughout the centre;
- Installation of IP Network surveillance cameras covering vehicle and pedestrian entry into the site;
- The detailed design of retail entrances and centre or spinal aisle stalls should facilitate observation;
- The ceiling of the undercroft car parking level is to be painted white and overhead lighting should exceed the minimum lux levels;
- Installation of surveillance cameras at level 1 and a help point, should an incident occur;
- Open entry (curvilinear) design into public toilets; and
- Vandal resistance coatings to be applied to non-glazed building façade surfaces.

The proposal was referred to NSW Police for comments. No objections have been raised subject to the implementation of the above recommendations.

2.10 Section 94 Contributions Plans

Hornsby Shire Council Section 94 Contributions Plan 2014 - 2024 requires a Section 94 Contribution levy for Non-Residential Development (excluding Industrial Development) which results in new or additional floor space. The shopping centre is located in the South Catchment where Section 94 contributions towards local road works are calculated on a Peak Vehicle Trip (PVT) basis and contributions towards plan administration are based on a per worker rate. In addition a contribution be required towards plan preparation and administration based on a retail worker occupancy rate of 4/100m² GFA.

Accordingly, the requirement for a monetary Section 94 contribution is recommended as a condition of consent based on the above and apportioned in stages 2 and 3 of the proposed works.

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 subject site and the surroundings accommodate vegetation that is consistent with Blue Gum High Forest (BGHF) critically endangered ecological community (CEEC) and Sydney Turpentine Ironbark Forest (STIF) endangered ecological community (EEC) listed under the *TSC Act*.

The proposed development would necessitate the removal of 119 trees from the site including species that are consistent with the above communities and would retain 13 existing trees. The application is supported by an *Arboricultural Impact Assessment Report* which identifies the trees within the site that would be removed and retained. Of the trees proposed to be removed, 67 trees have low retention value and 52 trees have been categorised to have high retention value. Further, 33 of the trees to be removed are characteristic to the communities BGHF or STIF. The application is also supported by a *Flora and Fauna Assessment Report*. The later report noted the following regarding the existing vegetation:

- Planted native species and exotic species in the landscaped area south of the carpark include four *Eucalyptus saligna* (Blue Gum) and one *Elaeocarpus reticulatus* (Blueberry Ash). These species correspond to BGHF and are part of a larger local occurrence of BGHF in The Lakes of Cherrybrook public reserve;
- Planted native species within an island garden within the carpark include one *Eucalyptus paniculata* (Grey Ironbark). Six other trees (*Eucalyptus saligna*, *Eucalyptus paniculata* and *Eucalyptus reticulatus*) within the subject site are identified as part of the local occurrence of BGHF;
- Other planted *Syncarpia glomulifera* trees in the landscaped area south of the carpark correspond to STIF and are part of the larger local occurrence of STIF, west of the subject site;
- The locally native trees within the landscaped batter are either planted species or have germinated within this area. However, due to the highly disturbed nature of the landscaping within the subject site and the lack of characteristic mid-storey species, the vegetation within the subject site does not correspond to BGHF; and
- A relatively small area of vegetation in the southwest corner of the Cherrybrook Village Shopping Centre site has been mapped as STIF and is part of a larger occurrence of STIF, on the adjoining site.

In accordance with the requirements of Section 5A the *Act*, an Assessment of Significance (7-part test) has been undertaken to determine the likely impact of the removal of the trees on the population of BGHF and STIF. The 7-part test concludes that the proposal is unlikely to have a significant impact upon the STIF and BGHF due to the following reasons:

- The development design seeks to avoid areas of remnant native vegetation by utilising the cleared areas wherever possible;
- The affected trees are planted and not naturally occurring;

- The proposal would result in removal 0.01 ha (27 planted *S. glomulifera*) or 1% of the mapped local occurrence of this community. Mitigation measures include the replanting of *S. glomulifera* and characteristic shrub and ground species within the landscaping;
- Only six trees, being characteristic of BGHF, are proposed to be removed. The area affected is minor (3%) in relation to majority (97%) of the local occurrence which would not be directly affected. Thus the local occurrence of this community would not be placed at risk of extinction;
- The extent of BGHF and STIF that would be impacted is minor in comparison to the extent of the local occurrence of the communities; and
- Potential indirect impact on the local occurrence due to the proposed development would be mitigated via appropriate landscaping with native tree shrub and ground layer species within the site adjacent to Shepherds Drive.
- Therefore, the habitat elements (planted native trees and shrubs) that provide connectivity along Shepherds Drive would be maintained and enhance and the proposal is not likely to have an adverse impact on these elements.

The submitted Landscape Plan includes 22 x *Angophora costata*, 16 x *Angophora floribunda* and 20 x *Syncarpia glomifera* as replacement canopy trees in lieu of the loss of the remnant trees. Additionally, 56 small native trees in conjunction with shrubs and ground cover to intercept the large trees.

Comment: Council's assessment of the proposal included a detailed examination of the existing trees on site. The proposal requires the removal of at least 33 locally native trees (combination of *Syncarpia glomulifera*, *Eucalyptus saligna* and *Eucalyptus paniculata*). Whilst it is acknowledged that the trees are planted at that location, they have ecological value forming connectivity to the adjoining remnant bushland.

The proposal appropriately offsets the loss of BGHF and STIF canopy by proposing 58 trees that are characteristic to both the communities. Additionally the landscape plan also proposes 56 small native trees within the front setback and also sporadically within the car park, wherever possible. Implementation of the landscaped plan would result in satisfactory connectivity between the vegetation and the existing bushland in the locality.

Given the above, the proposed loss of trees on site would not have an unreasonable impact on the locally occurring EEC and CEEC and the proposal is acceptable in its current form.

3.1.2 Stormwater Management

The existing site includes a stormwater management system connecting to the Council controlled drainage system with Shepherds Drive. The proposed redevelopment would connect to the existing stormwater system.

The stormwater concept plan incorporates water quality treatment devices in close proximity to the existing pit on Shepherds Drive. The details of the system and the associated MUSIC model, prepared by an accredited person, have been submitted and assessed as satisfactory by Council, subject to the implementation of recommended conditions of consent.

3.2 Built Environment

3.2.1 Built Form

3.2.1.1 The shopping Centre

The shopping centre building would be well setback from the front boundary and is designed as a part two storey built form, being compatible with the existing character of the area. The ramps providing access to the various levels and supporting columns have been integrated with the design of the building. The contemporary style of building with varied façade finishes and materials and well-designed ramps form would result in an acceptable built form for the locality.

3.2.1.2 The wall

As discussed in 'The Site' section of this report, the shopping centre is considerable elevated above the road reserve of Shepherds Drive due to the topography of the site. An open car park occupies the front setback area and includes a partial under croft car park on the eastern side. Given the elevation of the car park above the road level, a gabion wall and vegetative embankment form the primary streetscape component. The car park wall has a varying setback between 2.5m adjoining the driveway to 16m adjoining the service station. The height of the wall varies between 1m – 6m.

The proposal would result in extending the car park towards the front boundary. The additional components would include ramps, pedestrian stairs and steps. At the completion of Stage 2 works, a wall supporting the car park would extend across the frontage of the site at varying setbacks from the front boundary, being 7m – 10m adjoining the entry driveway reducing to 2.7m – 7.5m in the central section and increasing to 8m – 13m adjoining the service station. The height of the wall would vary between 3m (western side) to 9m (eastern side) and would partially include a void for the lower ground floor car park. Given the height and setback from the front boundary, the masonry wall would be a highly visible element from the Shepherds Drive streetscape.

The applicant submits that the proposed redevelopment would not vary the levels of the existing ground level car park or the under croft car park. Accordingly, the extended section of the lower ground floor car park would be located at RL 149.568 which is well elevated above the Shepherds Drive road reserve. The requirement to maintain the existing levels of the shopping centre car park, in conjunction with the sharp downward slope of the road towards the east, has resulted in the high wall along the frontage.

In order to mitigate adverse visual impacts of the increased height the application includes dense screen planting including 58 large canopy trees, 56 small trees plus ground cover. The façade would include a variety of materials and finishes including stacked stone cladding to the new vehicular entry façade, partial retention of the existing materials and a render paint finish (grey) on the eastern side. The columns supporting the lower ground floor car park include a timber finish to partially screen the car park void.

Comment: The redevelopment of the site would result in orderly and economic development of land by providing improved level of services for the local residents and appropriate car parking facilities. The wall is an integral component of the redevelopment of this site and is unavoidable due to the existing levels of the shopping centre car park and the need to provide an accessible connection between the existing and proposed levels. As such, a gabion wall already exists along the entire frontage and is partially screened by the existing vegetation.

Whilst the height of the wall would increase due to the redevelopment, the proposed landscaped screening in conjunction with appropriate treatment of the façade would result in a design that would not have a detrimental impact on the Shepherds Drive streetscape.

3.2.2 Traffic

Shepherds Drive is a local collector road between New Line Road to the south and Purchase Road to the north. The section of Shepherds Drive fronting the site is subject to 50 km/h speed limit. Two existing roundabout intersections are located at the western and eastern ends of the site being Shepherds Drive / Kenburn Avenue and Shepherds Drive / Macquarie Avenue. Kerb side parking is permitted on all approaches.

The proposal is categorised as a traffic generating development pursuant to SEPP (Infrastructure). The application is supported by a Traffic and parking report prepared by Colston Budd Rogers & Kafe (CBRK report). The key findings from this report include the following:

- The shopping centre generates 1,125 and 1,135 vehicles per hour (vph) (two-way) in the Thursday PM and Saturday midday peak respectively;
- The Shepherds Drive intersections with Kenburn Avenue and Macquarie Drive currently operate with delays of less than 20 seconds (LoS B) during the Thursday PM and Saturday midday peak;
- The proposed extensions provide employment opportunities which strengthen the demand for public transport connectivity;
- The proposed development is consistent with the government objectives and planning principles;
- Sufficient additional parking is proposed for light vehicles, accessible spaces, bicycles and motorcycles;
- RMS Warrants for traffic signals are not met at the proposed right turn bay on Shepherds Drive to Cherrybrook Village Shopping Centre or at the Shepherds Drive / Kenburn Avenue.;
- The additional generated traffic was calculated to be 550 vehicles per hour (two-way) for the Thursday PM and Saturday midday peak, 20% of which has been assessed as passing trade;
- SIDRA modelling results show that the intersections with Kenburn Avenue and Macquarie Drive continue to operate with delays of less than 20 seconds with the additional development traffic;

- The proposed new access point was shown to operate with delays of less than 15 seconds (LoS A); and
- The proposed redevelopment and new access point would not adversely impact the surrounding traffic environment.

Comment: Council conducted a peer-review of the above traffic and parking report by an independent traffic consultant (Bitzios Consulting). As part of this study, an existing condition VISSIM microsimulation model was developed for the Shepherds Drive Corridor within the study area. The following scenarios were assessed in this study:

- The Existing 2017 Base Model;
- Future Base Case 2027 Model with No Development;
- Future Scenario 1: Future Base Case 2027 with Development (50/50 Split Trip Distribution from East/West);
- Future Scenario 2: Future Base Case 2027 with Development (20/80 Split Trip Distribution from East/West);
- Future Scenario 3: Future Base Case 2027 with Development (20/80 Split Trip Distribution from East/West and Shepherds Drive / Kenburn Avenue Signalised).

The figure for the background traffic growth rate was developed in conjunction with the Hornsby Shire Council for application to the 2027 future traffic models. The value was decided to be a linear growth rate of 2% per annum representing a total increase in traffic of 20% over the 10-year period from 2017 to 2027.

A signal warrant assessment using the appropriate reduced warrants have been prepared by the consultant and provided below. The table provides a comparison of the estimated 2027 traffic volumes with the Roads and Maritime warrant.

Table 8.1: Signal Warrant Check

Time Period	Major Road Flow Warrant					Minor Road Flow Warrant				
	Requirements	East		West		Requirements	North		South	
		Volumes (veh/hr)	Meets Warrant?	Volumes (veh/hr)	Meets Warrant?		Volumes (veh/hr)	Meets Warrant?	Volumes (veh/hr)	Meets Warrant?
3:00pm – 4:00pm	Flow > 900 veh/hr each direction	845	N	455	N	Flow > 100 veh/hr each direction	688	Y	100	Y
4:00pm – 5:00pm		820	N	630	N		631	Y	100	Y
5:00pm – 6:00pm		895	N	685	N		650	Y	100	Y
9:30am – 10:30am		805	N	510	N		575	Y	125	Y
10:30am – 11:30am		853	N	460	N		632	Y	110	Y
11:30am – 12:30pm		890	N	395	N		660	Y	110	Y
12:30pm – 13:30pm		870	N	370	N		650	Y	130	Y

As seen in the above table, the Roads and Maritime warrants are met for the minor road approaches and the western approach on Shepherds Drive is very close to the required figure of 900vehicles/hr. The eastern approach on Shepherds Drive does not meet the requirements. Despite this, the average of the all approaches is approximately 2000 vehicles/hr which meets the overall numbers of vehicles required by the Warrant.

Key observations for Scenario 3 (signalised intersection) include the following:

- The Shepherds Drive / Macquarie Street and Shepherds Drive / shopping centre new access operate with LoS A in all peak hour periods assessed;
- As compared to the 2017 Base, in Scenario 3, traffic at the Shepherds Drive / Kenburn Avenue intersection experience increased delays. However, when compared to Scenario 1 and 2, the Thursday PM and Saturday midday peak traffic experience less delays. Moreover, it should be noted that the layout adopted for the Shepherds Drive / Kenburn Avenue signalised intersection is considered to be very basic. It is anticipated that an improved intersection layout with additional turning lanes will provide substantially better intersection performance; and
- All vehicles are serviced by the Scenario 3 layout during both the PM and Saturday peak modelling periods.

The peer-review report concluded the following:

- Existing and development traffic volumes as calculated in the CBRK report are considered to be acceptable according to survey and trip generation assessment results;
- The CBRK report model was undertaken for only one-hour period during the Thursday PM peak and Saturday midday peak and did not consider the background traffic growth for the next ten years;
- The SIDRA model developed by the proponent of the development does not calibrate and validate to the existing traffic conditions. The model overestimates traffic capacity at the Shepherds Drive / Kenburn Avenue roundabout intersection. Therefore, the outcomes of the SIDRA traffic assessment which includes the development traffic, are not considered to be acceptable;
- The existing roundabout intersection at the Shepherds Drive / Kenburn Avenue intersection is predicted to provide very poor traffic performance with the 2027 PM and Saturday Peak projected traffic volumes that includes the additional traffic volumes from the proposed shopping centre extension;
- The Roads and Maritime signal warrant guidelines were adopted to determine whether the existing intersection at Shepherds Drive and Kenburn Avenue could be upgraded to a signalised intersection.
- The outcomes of the warrant assessment along with traffic modelling assessment, show that traffic signals are required before the future year 2027 at the location of the existing roundabout intersection; and
- The signalised intersection would provide safe pedestrian crossing facilities on all four approaches of the intersection.

Council concurs with the above conclusions and considers that prior to the commencement of the works for Stage 3, traffic control signals should be installed at the Shepherds Drive and Kenburn Avenue intersection for appropriate management of the future traffic generated due to this development during peak times in addition to safe pedestrian access, which would be one the key reasons for the upgrade. A condition of consent has been recommended

requiring submission of design plans prior to the issue of the construction certificate for Stage 2 works to assure that the works associated with the traffic signals may be carried out on time.

3.2.3 Noise

The development is not categorised as a noise sensitive development. Notwithstanding, the application is supported by a Noise Impact Assessment Report which has assessed the impact of the noise generated by the redeveloped site on the surrounding locality.

The report includes investigations regarding the potential noise impacts from additional traffic movements/mechanical plants and concludes that the anticipated increase in traffic flows would have negligible noise impact on the surrounding road network or the acoustic amenity of surrounding residential receivers.

The application is assessed as satisfactory in this regard.

3.3 Social Impacts

The social impacts of the development on the local and broader community have been considered with specific reference to the potential employment generation within the complex. It is estimated that the development would generate 149 equivalent full time/part time and casual positions post construction, as per the submitted Economic Impact Assessment Report. This is consistent with the *State Government's 'A Plan for Growing Sydney' which identifies the need to provide an additional 689,000 new jobs by 2031.*

There would be a number of multiplier effects that the development would provide throughout the local and regional economies. These multiplier effects would result from the sourcing of goods and services from suppliers to businesses within the complex as well as the increased consumption generated by the increase of employment in the area. The complex is likely to provide employment opportunities to younger age groups, which typically have higher unemployment rates within the region.

3.4 Economic Impacts

The proposed development would result in a notable increase in the total retail floor space within the Cherrybrook Village Shopping Centre. Accordingly, the application is supported by an Economic Impact Assessment Report (EIA) assessing the impact of the proposed redeveloped shopping centre on the retail hierarchy within the locality and benefits to the local community. The report identifies that there are four competing shopping centres within the trade area and ten competing shopping centres outside the trade area.

- The report concludes that the in 2019 the proposed retail development may achieve sales in the order of \$129 million. This reflects an uplift of \$25.7 million compared to turnover that might otherwise be achieved under a 'no development scenario'.
- The additional retail floor space at Cherrybrook Village Shopping Centre will draw the following:
 1. \$4.3 million from competing centres within the trade area;

2. \$16.3 million from other centres in the vicinity of the trade area, and
 3. \$4.9 million from other centres throughout metropolitan Sydney including Sydney CBD, Hornsby, Blacktown and Parramatta.
- The Cherrybrook Village development is likely to compete most directly with other centres with ALDI supermarkets, as this is one of the major additional components;
 - The degree of impact varies across the range of centres listed depending primarily on each centres proximity and competitiveness of offer to the proposed development;
 - Further, the existing centres at Castle Hill, Dural, Thornleigh, North Rocks, Rouse Hill and Kellyville would be directly impacted upon due to the proposed ALDI supermarket. Notwithstanding, majority of competing centres are expected to achieve higher sales in 2019 (post impact) than 2015 levels. However, Oakhill Shopping Village is projected to maintain current trading levels (i.e. not increase);
 - Impacts on the ALDI store network are largely a commercial matter for that particular business, rather than presenting a risk to the other centres more broadly;
 - In terms of retail broadly, the impacts identified on all centres are on levels considered low and certainly acceptable within normal competitive environment;
 - The extension is considered to result in a number of economic benefits as follows:
 1. The proposal would provide local residents with a broadened supermarket choice and a wider range of retail facilities with enhanced parking provision;
 2. The broad range of choice would also promote greater competition, with possible benefits for keener prices and better quality;
 3. The non-retail land uses would contribute to wellbeing within the community and broaden the range of activities provided at Cherrybrook; and
 4. The development would reduce car usage and promote sustainable transport modes by reducing the need for local residents to travel greater distances to access other retail centres.

Comment: Council' assessment of the submitted EIA concludes that the proposed extension of the Cherrybrook Village Shopping Centre would have some impact on the commercial centres within and outside the current trade areas. However, this would not threaten the viability of any existing retail centre or precinct, and is therefore supportable from an economic perspective. The centre would continue in its role as a local centre with broadened and improved services and facilities.

The proposal is acceptable having regard to its economic impact on the locality.

4. SITE SUITABILITY

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

The proposal is a permissible use on the site and proposes a development which complies with the permissible bulk and scale requirements. The proposed land uses are also consistent

with the use and function of the existing development located on the site being the Cherrybrook Village Shopping Centre.

The application includes a number of additional provisions to ameliorate negative impacts of traffic generation due to the development. However, Council's assessment in this regard concludes that the vehicular access to the site via the roundabout at the corner of Shepherds Drive and Kenburn Avenue is not suitable as it would result in detrimental impact on the surrounding road network in the future due to the increased capacity of the centre and the increased user level. Consequently, a condition of consent recommends upgrade of the intersection and replacement of the roundabout by traffic control signals at the applicant's cost, prior to the completion of construction works.

The site is considered to be suitable for the proposed redevelopment, subject to the implementation of the traffic signals.

4.1 Bushfire Risk

The subject site is identified as bushfire prone land. The initial proposal was integrated under Section 100B of the Rural Fires Act 1997 due to the proposed child care centre. However, the child care centre was subsequently deleted from the proposal.

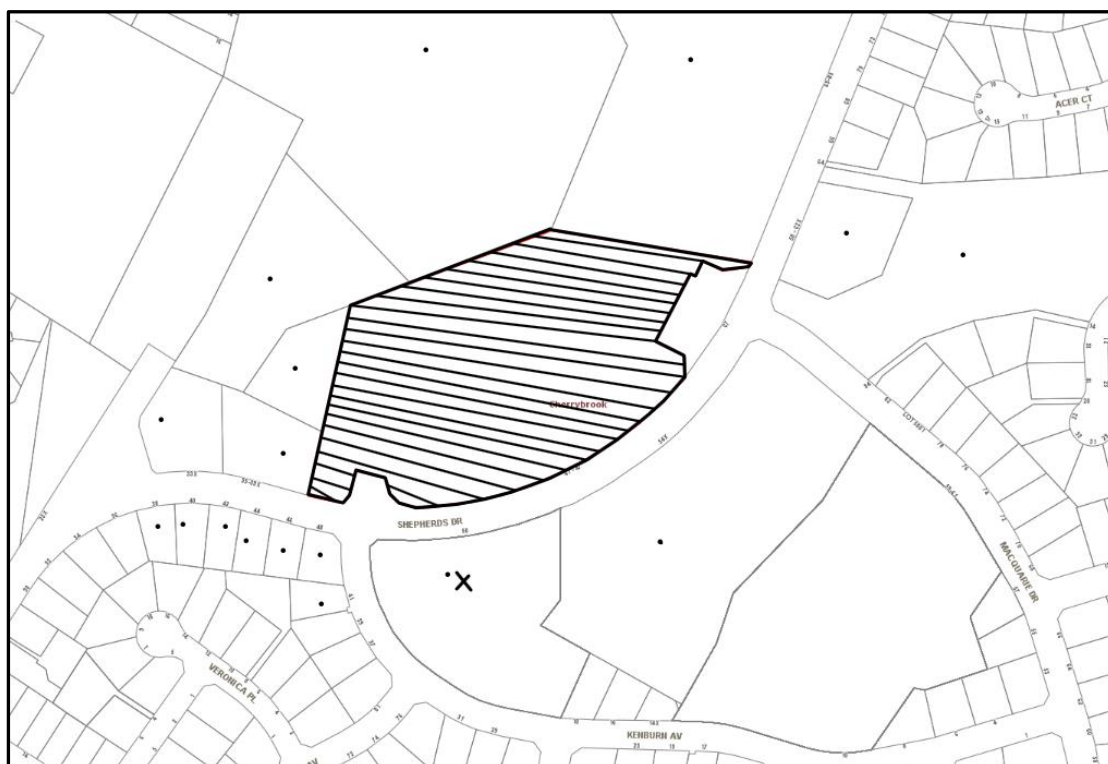
Notwithstanding, the proposal was assessed by NSW Rural Fire Services and no objections are raised subject to recommended conditions of consent.

5. PUBLIC PARTICIPATION


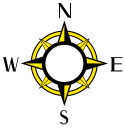
Section 79C(1)(d) of the Act requires Council to consider *"any submissions made in accordance with this Act"*.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 29/09/2016 and 8/11/2016 in accordance with the Notification and Exhibition requirements of the *HDCP*. During this period, Council received three submissions. 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

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT DEVELOPMENT	OF 
Two submissions with no address			

Three submissions objected to the development on the following grounds:

- Improvements to the roundabout in front of the site should be undertaken to reduce queuing and avoid accidents;
- The degree of queuing has not been modelled appropriately and therefore the level of congestion cannot be estimated;
- The application does not address the queuing impacts on the existing roundabout;
- No safe pedestrian crossings have been proposed to facilitate access from school children and the local residents in the area;
- The proposed right turning bay would result in loss of on-street parking on Shepherds Drive;
- The existing staff parking within the site is insufficient;
- The additional car parking would result in light spillage on to the nearby residences;

- The removal of 118 significant trees is unacceptable;
- The replacement planting and landscaping is unacceptable;
- The wall of the car park would have a detrimental impact on the locality;
- The car park fumes would result in increased air pollution;
- The car park should be relocated towards Greenway Park;
- The proposed gymnasium should not operate for 24 hours; and
- The proposed shopping centre is oversized for its location and would involve liquor outlets that may cause crime in the locality.

The merits of the matters raised in the community submissions are discussed below.

5.1.1 Unacceptable traffic, roundabout upgrade and pedestrian safety

As discussed in this report Council's assessment of the proposal concludes that the roundabout at the intersection of Shepherds Drive and Kenburn Avenue is required to be upgraded to cater for the redeveloped site and provide a safe pedestrian access to the centre in the future from the opposite side of Shepherds Drive.

Consequently, it is recommended that traffic control signals should be installed at the above intersection to address the concerns raised by the community regarding queuing of traffic and unsafe pedestrian access. A condition of consent has been recommended accordingly.

5.1.2 The removal of significant trees

It is noted that the proposal would result in the removal of 119 trees including trees that are characteristic to BGHF and STIF. However, the trees within the site are planted species and the removal of the trees would not have unreasonable impact on the local occurrence of the community. The application includes a landscape plan that proposes adequate replacement planting including 58 large native canopy trees. Subject to the implementation of the landscape plan the proposal would not have a detrimental impact on the natural environment of the locality.

5.1.3 Air Pollution

The proposed development is not classified as a polluting land use as it involves shops, medical centre, gymnasiums and offices. Whilst the car park in front of the site would generate additional vehicular movement, it would not significantly contribute to increased air pollution as the car engines would not emit any fumes while parked in the car park.

The proposal is a permissible form of development and the matters in relation to impact on the natural environment has been assessed at the time of zoning the site for the purpose of business use. No further assessment in this regard is necessary.

5.1.4 Light pollution

A condition of consent recommends that external lighting comply with the relevant Australian standards to avoid light spill on to the adjoining properties.

5.1.5 Visual Impact

The wall along the frontage of the site currently exists. The proposal would result in increasing the height of this wall, specifically at the eastern end where the site fronts the Lakes of Cherrybrook reserve. The increased height of the wall would not be discernible from the public domain on the western side where the residential properties are located. As such, the wall is unavoidable at this location due to the topography of the site and the existing levels of the shopping centre. The proposal involves dense planting along the entire frontage to screen the wall as much as possible. Council's assessment is satisfactory in this regard subject to the implementation of the landscape plan.

5.1.6 Operating hours

The proposal does not include details of operating hours for the gymnasium. Any amendments to the operating hours would be assessed under a separate development application.

5.1.7 Relocation of car park

A shopping centre exists on the site currently and the application proposes alterations to this centre. The proposal takes advantage of the cleared areas of the site and proposes roof top parking near the northern boundary. Given the topography and the constrained site area, further relocation of the car park towards the northern boundary would not be achievable. The proposal is acceptable in this regard.

5.1.8 Car Parking

Car parking requirements for a commercial complex are based on the proposed floor area which incorporates staff parking and customer parking. As discussed in this report, the proposal complies with the RMS guidelines having regard to car parking and is assessed as satisfactory.

5.1.9 Right turn bay

Council notes that on-street parking would be lost due to the construction of the right-turn bay. However, the right turn bay is an essential component of the road improvement works required to facilitate the development and for Shepherds Drive to operate at an acceptable level of service. Council's traffic assessment concludes that on-street parking is available along Macquarie Drive and Shepherds Drive that would be sufficient to cater for the users.

5.1.10 Liquor shops

The proposal does not incorporate any specific uses to the extended section of the commercial complex apart from the ALDI supermarket. Occupation of a premise for the purpose of liquor outlet would require further development consent in future and is not required to be assessed under this application.

5.2 Public Agencies

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

5.2.1 Roads and Maritime Services (RMS)

The proposal was referred to RMS for comments as it is classified as a traffic generating development. The matter is discussed in section 2.6.1 of this report.

5.2.2 Rural Fire Service (RFS)

The proposal was referred to NSW RFS for comments. The matter is discussed in Section 4.1 of this report.

5.2.3 NSW Department of Primary Industries

The proposal was referred to NSW Department of Primary Industries for an aquifer interference approval as discussed in Section 2.5.1 of this report.

5.2.4 NSW Police

NSW Police force reviewed the proposal and raised no objections subject to recommended conditions.

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 subject to the implementation of conditions of consent requiring installation of traffic signals at the intersection of the Shepherds Drive and Kenburn Avenue intersection.

Accordingly it is considered that the approval of the proposed development would be in the public interest.

CONCLUSION

The application is for redevelopment of the Cherrybrook Village Shopping Centre involving demolition of a child care centre, expansion of the retail space at the ground level, addition of a first floor level to add offices, medical centre and a gymnasium and extension to the car park to include 628 parking spaces with an additional vehicular entry in three stages. The proposal necessitates the removal of 119 trees within the site.

The proposal generally complies with the relevant objectives and controls of the *HLEP 2013* and *HDCP 2013*. The application includes comprehensive landscaping and replanting strategy with new indigenous native trees to replace the loss of vegetation. The proposed additional commercial floor space does not impact upon the retail hierarchy and would result in negligible impact on competing retail centres.

The proposal incorporates improvements to vehicular and pedestrian access into and within the centre to address existing traffic queuing issues at the existing roundabout entry/ exit to the site.

Council's assessment concludes that the proposed redevelopment would have an adverse impact on the level of service for the Shepherds Drive and Kenburn Avenue intersection. The proposal does not incorporate any safe pedestrian crossings for the users accessing the centre from the southern side of the road. Consequently, in addition to the proposed traffic improvements, a condition of consent recommends that traffic signals are to be installed at the affected intersection to ameliorate queuing impacts and provide safe pedestrian access.

Subject to the implementation of the above condition and the replacement planting within the front setback, the redevelopment of the site would not have an unreasonable impact on the natural and built environment of the locality.

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.

SCHEDULE 1

STAGE 1 – CONSTRUCTION OF THE VEHICULAR AND PEDESTRIAN RAMP, RECONFIGURATION OF PARKING, REMOVAL OF TREES AND LANDSCAPING

STAGE 2 – ADDITION OF LOWER GROUND FLOOR CAR PARK, RECONFIGURATION OF PARKING, DEMOLITION OF CHILD CARE CENTRE, ADDITION AND ALTERATION TO RETAIL SPACE, ADDITION OF AN UPPER LEVEL WITH A MEDICAL CENTRE AND OFFICES, LANDSCAPING

STAGE 3 EXTENSION OF LOWER GROUND LEVEL CAR PARK, ADDITION OF RETAIL FLOOR SPACE AT GROUND LEVEL, ADDITION OF ROOF TOP CAR PARKING AND A GYMNASIUM, REPLACEMENT OF PEDESTRIAN RAMP WITH A LIFT AND STAIRS, REMAINING LANDSCAPING

CONDITIONS APPLICABLE TO STAGES 1, 2 AND 3 WORKS

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:

Architectural plans

Plan No.	Rev	Plan name	Drawn by	Dated
DA-00	H	Cover Sheet	Ignite	29/06/2017
DA-05	J	Proposed Masterplan/Site Plan	Ignite	29/06/2017
DA-06	J	Proposed Masterplan – Lower Ground	Ignite	29/06/2017
DA-07	J	Proposed Masterplan – Ground Level	Ignite	29/06/2017

DA-08	K	Proposed Masterplan – level 1	Ignite	29/06/2017
DA-10	H	Proposed Masterplan – elevations and sections	Ignite	29/06/2017
DA-10.1	D	Proposed Stage 1 and 2 – Demolition Plan	Ignite	29/06/2017
DA-11	J	Proposed Stage 01 – Lower Ground	Ignite	29/06/2017
DA-12	K	Proposed Stage 01 – Ground Level	Ignite	29/06/2017
DA-14	J	Proposed Stage 01 – Roof Plan	Ignite	30/06/2017
DA-15	F	Proposed Stage 01 – elevations and Sections	Ignite	29/06/2017
DA-17	F	Proposed Stage 02 – Lower Ground	Ignite	29/06/2017
DA-18	G	Proposed Stage 02 – Ground Level	Ignite	30/06/2017
DA-19	H	Proposed Stage 02 – Level 1 plan	Ignite	30/06/2017
DA-20	D	Proposed Stage 02 – Roof Plan	Ignite	30/06/2017
DA-21	E	Proposed Stage 02 – elevations and Sections	Ignite	29/06/2017
DA-23	A	Proposed Stage 03 – Lower Ground	Ignite	29/06/2017
DA-24	A	Proposed Stage 03 – Ground Level	Ignite	28/06/2017
DA-25	A	Proposed Stage 03 – Level 1 plan	Ignite	29/06/2017
DA-26	A	Proposed Stage 03 – Roof Plan	Ignite	29/06/2017
DA-27	A	Proposed Stage 03 – elevations and Sections	Ignite	29/06/2017
DA-29	A	Proposed Stage 01,02 and 03 – Shepherds Drive elevations	Ignite	29/06/2017

Landscape Plans

Plan No.	Rev	Plan name	Drawn by	Dated
-	-	Appendix 1A: proposed Site Plan	Urban Arbor	09/08/2016
001	F	Landscape Masterplan Stage 3	Site image	29/06/2017
002	A	Landscape Masterplan Stage 1	Site image	29/06/2017
101	F	Landscape Plan 1	Site image	29/06/2017
101.1	A	Landscape Plan 2 Stage 1	Site image	22/08/2017
102	F	Landscape Plan 2	Site image	29/06/2017
102.1	A	Landscape Plan 2 Stage 1	Site image	22/08/2017

103	F	Landscape Plan 3	Site image	29/06/2017
103	A	Landscape Plan 3 Stage 1	Site image	22/08/2017
104	F	Landscape Plan 4	Site image	29/06/2017
104.1	A	Landscape Plan 4 Stage 1	Site image	22/08/2017
501	G	Landscape Details	Site image	23/08/2017

Stormwater plans

Plan No.	Rev	Plan name	Drawn by	Dated
CI-110	1	Concept Stormwater plan – Ground Level	Cardno	7/09/2016
CI-115	1	Concept Stormwater plan – Lower Ground Level	Cardno	7/09/2016
CI-120	1	Erosion and Sediment Control Plan	Cardno	7/09/2016
CI-125	1	Erosion and Sediment Control Details	Cardno	7/09/2016

Supporting Documents

Doc No.	Rev	Document Name	Prepared by	Dated
047-06	-	Detail Survey Sheets 1 - 23	Craig and Rhodes	4/07/2016
3801-11		Details of Gabion Mattress	Bee and Leithbridge	27/02/1999
DA-00	H	Cover Sheet	Ignite	29/06/2017
DA-01	H	Existing Site Plan	Ignite	29/06/2017
DA-02	G	Existing Lower ground plan	Ignite	29/06/2017
DA-03	G	Existing Ground Floor Plan	Ignite	29/06/2017
DA-04	E	Existing elevations and sections	Ignite	29/06/2017
DA-09	E	Solar Diagrams	Ignite	29/06/2017
DA-16	F	Proposed Stage 01 – 3D Views	Ignite	29/06/2017
DA-22	E	Proposed Stage 02 – 3D	Ignite	29/06/2017

		Views		
DA-28	A	Proposed Stage 03 – 3D Views	Ignite	29/06/2017
85520.00		Report on Geotechnical Investigation	Douglas Partners	September 2016
16/09/05/C SV	-	Arboricultural Impact Assessment Report	Urban Arbor	5/09/2016
16SYD-4971	2	Flora and Fauna report	Ecological Australia	8/09/2016
80816134	-	Stormwater Quality Report	Cardno	6/09/2016
CI-100	1	Cover Sheet	Cardno	7/09/2016
SH894	-	Heritage Impact Statement	Urbis	August 2016
		Statement of Environmental Effects	Urbis	September 2016
		Supporting Letter	Urbis	29/07/2017
-	-	Waste Management Plan	Mirvac	15/08/2016
-	3	Noise Impact Assessment Report	Acoustic Logic	8/09/2016
9897	2	Traffic and Parking Report/Letters/Surveys/SI DRA analysis	Colston Budds Rogers and Kafes Pty Ltd	September 2016, 23/03/2017, 28/02/2017, 31/05/2017
-	-	Access Review	Morris-Goding Accessibility Consulting	18/08/2016
-	B	BCA Design Compliance Report	Modern Building Certifiers	18/08/2016
-	-	Crime Prevention Report	Harris Crime Prevention Services	August 2016
Rp2	-	Economic Impact Assessment Report	Urbis	30/08/2016

-	-	Bushfire Report	BPAD	28/07/2016

2. Removal of Existing Trees

- a) This development consent permits the removal of trees numbered 1, 3-76, 78-81, 85, 88-114, 122-123B, 124 and 126 identified in *Appendix A: Proposed Site Plan* prepared by *Urban Arbor Pty Ltd* dated 9/08/2016.
- 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. Amendment of Plans

- a) The approved plans must be amended to incorporate open entry (curvilinear) design into public toilets;
- b) The approved plans must be amended to delete any reference to “child care centre” labels.
- c) These amended plans must be submitted with the application for the 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. Project Arborist

A Project Arborist (AQF5 qualified) is to be appointed in accordance with AS 4970-2009 (1.4.4) to oversee installation of trunk protection measures, monitor the integrity of the tree protection methods, record any modifications or alterations to the tree protection zone fencing for the duration of the construction period and provide all required certification throughout the development process. The details of the appointed Arborist are to be provided to Council and the PCA prior to the issue of the construction certificate for Stage 1 works.

6. Approval

- a) No advertising signs are approved under this development consent.

- b) No child care centre is approved under this development consent.

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

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

8. Fire Safety Upgrade

To ensure the protection of persons using the building and to facilitate egress from the building in the event of a fire, the application for a construction certificate must demonstrate that the proposal complies with the Category 1 fire safety provisions.

Note: This condition does not apply to the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning and Assessment Regulation, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4) of the Act or to the erection of a temporary building.

9. 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.

10. Internal Driveway/Vehicular Areas

The driveway and parking areas on site must be designed, in accordance with *Australian Standards 2890.1, 2890.2, 3727*.

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. 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.

13. 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**".

14. Pedestrian Management Plan

A Pedestrian Access Management Plan (PAMP) detailing how pedestrian movements will be changed and managed during various stages of development, particularly during any partial or total closure of footpaths. The PAMP must be submitted to Council for approval.

15. Construction Management Plan

A Construction Management Plan (CMP), prepared by a suitably qualified consultant, must be submitted for approval by Council. The CMP must include, but not be limited, details of the following:

- a) Noise attenuation measures be implemented along the southern boundary of the site;
- b) During excavation works, rock removal must be undertaken by sawing instead of rock hammering, wherever practicable;
- c) The construction works must be undertaken in accordance with the "Interim Construction Noise Guidelines – 2009" published by DECCW and achieve compliance with the relevant noise levels; and
- d) The delivery times and vehicular movements related to demolition, excavation and construction works must be restricted to the construction hours only.

16. Acoustics

The recommendations within the *Noise Impact Assessment Report* prepared by *Acoustic Logic* dated 8/09/2016 must be incorporated in the Construction Certificate plans.

17. Geotechnical Report

The recommendations within the *Report on Geotechnical Investigation* prepared by *Douglas Partners* dated September 2016 must be incorporated in the Construction Certificate plans.

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 Barriers

- a) All trees being retained on site must have tree protection measures for the ground, trunk and canopy installed in accordance with the Australian Standard 'Protection of Trees on Development Sites (AS 4970-2009).
- b) The location of tree protection zone fencing must erected around trees numbered 2, 74, 74A, 77, 82, 86, 115, 116, 117, 118, 119, 120 and 121 identified in *Appendix A: Proposed Site Plan* prepared by *Urban Arbor Pty Ltd* dated 9/08/2016.
- c) All Tree Protection Zones must have a layer of wood-chip mulch installed prior to works commencing and must be maintained throughout the period of construction at a depth of 150mm – 300mm using material that complies with Australian Standard AS 4454.
- d) A certificate from the project arborist must be submitted to the Principal Certifying Authority and Council stating compliance with the relevant tree protection conditions of this consent.

23. Dewatering

Temporary dewatering over 3ML may require a water licence which should be obtained prior to commencement of construction works, if applicable.

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION
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24. Construction Work Hours

All work on site (including demolition and earth works) must only occur between 7am and 5pm Monday to Saturday (unless otherwise approved in writing by Council due to extenuating circumstances). No work is to be undertaken on Sundays or public holidays.

25. 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.

26. 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.

27. Street Sweeping

To protect the surrounding environment, Street sweeping must be undertaken following sediment tracking from the site along Shepherds Drive 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.

28. Works Near Trees

- a) All works, including driveways and retaining walls within 3 metres of any trees to be retained (whether or not on the subject property, and pursuant to this consent or the Tree Preservation Order), must be carried out under the supervision of an 'AQF Level 5 Arborist'.
- b) 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.
- c) The project arborist must monitor and record any necessary remedial actions for maintaining tree health and condition required for trees numbered 1, 2, 74, 74A, 77, 82, 86, 115, 116, 117, 118, 119, 120 and 121.
- d) The appointed project arborist must monitor and record all changes or modifications to required tree protection measures for the period of construction.
- e) Where there is a requirement for root pruning, it must be recorded and undertaken by the project arborist as specified in Australian Standard AS 4970-2009 Sections 3.3.4, 4.5.4 and 4.5.5.

- f) Any necessary excavation must be undertaken by sensitive methods such as pneumatic or by hand as prescribe in AS 4970-2007 Sections 4.5.5.
- g) The installation of all services which enter or transects a designated Tree protection Zone must utilise sensitive methods of installation such as directional drilling or in manually excavated trenches.
- h) The process must be monitored by the project arborist to assess the likely impacts of boring and bore pits on retained trees.
- i) For manual excavation of trenches the project arborist must advise on roots to be retained and must monitor the works. Manual excavation may include the use of pneumatic and hydraulic tools.
- j) 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.
- k) The project arborist must submit to the principal certifying authority on a monthly a certificate that the works have been carried out in compliance with the approved plans and specifications for tree protection. Certification should include a statement of site attendance, the condition of the retained trees, details of any deviations from the approved tree protection measures and their impacts on trees. Copies of monitoring documentation may be required.

29. **Bushland Protection During Construction**

To ensure the protection of bushland during construction, the applicant must::

- a) Install 1.2 metre high chain wire fencing (or similar) along the western boundary; and
- b) Clean machinery of soil and debris before entering the site to prevent the spread of weeds and fungal pathogens.

Note: The adjoining site contains Sydney Turpentine ironbark forest (STIF) which is listed as an '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 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.

30. **Council Property**

To ensure that the public reserve is kept in a clean, tidy and safe condition during construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath.

Note: This consent does not give right of access to the site via Council's park or reserve. Should such access be required, separate written approval is to be obtained from Council.

31. Waste Management Details

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

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

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

32. 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.
- b) A compaction certificate is to be obtained from a suitably qualified geotechnical engineer verifying that the specified compaction requirements have been met.

- c) These certificates must be included with the application for an occupation certificate.

33. 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.

34. Survey Report

A reports 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.
- b) Confirming that the waste collection vehicle turning area complies with AS2890.1 – 2004 and AS20890.2 – 2002 for Heavy Rigid Vehicles and Articulated Vehicles.

35. Compliance During Construction Works

The development must be carried out in accordance with the following approved documents:

- a) Traffic Control Plan (TCP);
- b) Construction Traffic Management Plan (CTMP);
- c) Construction Management Plan (CMP);
- d) Pedestrian Access Management Plan (PAMP); and
- e) The recommendations within the Report on Geotechnical Investigation prepared by Douglas Partners dated September 2016 regarding Ground vibration, excavation conditions, excavation support, groundwater control, foundations and ground slabs.

36. Groundwater

The proposal must not incorporate the provision for the permanent or semi-permanent pumping of groundwater seepage from below ground areas. A fully tanked structure must be used for this purpose, if applicable.

37. 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.

38. Construction Work Zones

- a) All construction vehicles associated with the proposed development are to be contained on site or in a "Works Zone" approved by the Local Traffic Committee (LTC);
- b) The site supervisor is to be advised that the Works Zone will be deemed to be in effect, and fees will apply, between the dates nominated by the supervisor, or when parking spaces are managed for the sole use of construction vehicles associated with the site;
- c) The Works Zone signs shall be in effect only for the times approved by Council, and the time is to be noted on the sign. Eg: 'Works Zone Mon – Sat 7am – 5pm';
- d) The applicant is required to supply a sign posting installation plan for referral to the Local Traffic Committee, noting on it the duration of the Works Zone; and
- e) The Works Zone is only to be used for the loading and unloading of vehicles. Parking of workers' vehicles, or storage of materials, is not permitted.

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.

39. 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.

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. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed road pavement, kerb & gutter, public drainage systems, driveways and on-site detention system. The plan(s) must be accompanied by a certificate from a registered surveyor certifying that all pipelines and associated structures lie wholly within any relevant easements..

43. Car Parking and Vehicular Areas

All vehicular areas within the site and the car parking must be constructed 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 requirements:

- a) The driveway to be designed in accordance with the approved plans and the conditions of this development consent;
- b) All parking areas and driveways are to be sealed to an all-weather standard, line marked and signposted;
- c) All parking for people with disabilities is to comply with AS/NZS 2890.6:2009 Off-street parking for people with disabilities; and
- d) No landscaping should restrict sightline of drivers or pedestrians.

44. Retaining Walls

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

45. 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.

46. Cooling Towers

- a) All cooling towers must be designed and installed in accordance with the Public Health Act 1991, the Public Health (Microbial Control) Regulation 2000 and Australian/New Zealand Standard AS/NZS 3666 – “Air-Handling and Water Systems of Buildings”.
- b) Certification of compliance with the Standard must be obtained from a suitably qualified person and submitted to the PCA prior to the issue of an occupation Certificate.

Note: Under clause 15 of the Public Health (Microbial Control) Regulation 2000, the occupier of the part of premises where a regulated system is installed, must notify the Council of the following particulars:

- i) *Type of system.*
- ii) *The address of the premises on which the system is installed.*
- iii) *The name, and the residential and business addresses, of the owner of the premises.*
- iv) *If the operation area on the premises is occupied otherwise than by the owner, those particulars in relation to the occupier the telephone numbers at which, during business hours and after business hours, the person or persons referred to in the above point may be contacted.*

47. Preservation of Survey Marks

A certificate by a Registered Surveyor must be submitted to the Principal Certifying Authority, certifying that there has been no removal, damage, destruction, displacement or defacing of the existing survey marks in the vicinity of the proposed development or otherwise the re-establishment of damaged, removed or displaced survey marks has been undertaken in accordance with the Surveyor General's Direction No.11 – **"Preservation of Survey Infrastructure"**.

48. Construction of engineering works.

All engineering works identified in this consent are to be completed and a Compliance Certificate issued prior to the release of the Occupation Certificate.

49. 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 and include the replacement planting in accordance with Landscape Details DA-501 Issue G and the following requirements:

- a) A total of 58 large canopy trees, being 22 x *Angophora costata*, 16 x *Angophora floribunda* and 20 x *Syncarpia glomifera*, must be planted within the site and appropriately staged as per the approved plans;
- b) On-slab planter boxes must include waterproofing, subsoil drainage (proprietary drainage cell, 50mm sand and filter fabric) automatic irrigation, minimum 500mm planting soil for shrubs and minimum 1000mm planting soil for trees and palms and 75mm mulch.
- c) Green Wall planters must include waterproofing, subsoil drainage (proprietary drainage cell, 50mm sand and filter fabric) automatic irrigation, minimum

350mm depth of planting soil for shrubs and minimum 1000mm planting soil for trees and palms and 75mm mulch.

- d) All trees to be planted are to meet the quality requirements as outlined in AS 2303 Tree Stock for Landscape Use.
- e) The planted trees are to be located 1000mm long and min 600mm wide mulched plant beds, have three hardwood stakes with a minimum 200 litre pot size during plant establishment;
- f) All replacement large canopy trees within the site must be native to Hornsby Shire and must reach a mature height greater than 9 metres;
- g) All tree stock must meet the specifications outlined in 'Specifying Trees' (Ross Clark, NATSPEC Books); and
- h) Planting methods must meet professional (best practice) industry standards.

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.

50. **Waste Management**

The following waste management requirements must be complied with:

- a) A comparison of the estimated quantities of each waste type against the actual quantities of each waste type.

Note: Explanations of any deviations to the approved Waste Management Plan is required to be included in this report.

- i) That at least 60% of the waste generated during the demolition and construction phase of the development was reused or recycled.

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

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

51. **Food Premises**

The fit out and operation of that part of the building to be used for the manufacture, preparation or storage of food for sale, must be in accordance with *Australian Standard 4674-2004 – Design and fit out of food premises*, the *Food Act 2003*, and the *Food Regulation 2015* and the *Food Standards Code* developed by Food

Standards Australia New Zealand. Food Standards 3.3.1. 3.2.2 and 3.2.3 are mandatory for all food businesses.

Note: Walls are to be of solid construction.

52. Waste Water

Written permission must be obtained from Sydney Water before discharging trade wastewater to the sewer. Food outlets and food services are required to install and maintain an adequately sized grease trap. A dry basket arrestor or bucket trap is necessary if there are floor wastes in the food preparation and handling areas. Floor wastes must drain to the grease trap servicing the kitchen. Refer to the Sydney Water publication 'Managing trade wastewater in the food service industry'.

Note: An application must be submitted to Sydney Water, refer to sydneywater.com.au or phone 13 20 92.

53. Kitchen Exhaust Installation

A kitchen exhaust system must be designed and installed to effectively prevent air pollution in accordance with the *Protection of the Environment Operations Act 1997*.

54. Skin Penetration Premises Fit Out

The fitout of the premises and all procedures must be in accordance with the *Public Health Regulation (Skin Penetration) 2012* and the *Public Health Act 2010*.

55. Hairdressing Fit Out

The fitout of the premises and all procedures must be in accordance with the *Public Health Act 2010* and the Section 124 of the *Local Government Act 1993 and Reg 84 of the Local Government (General) Regulation 2005*.

56. Beauty Salon Fit Out

The fit of the premises and all procedures must be in accordance with the *Public Health Act 2010* and the Section 124 of the *Local Government Act 1993 and Reg 85 of the Local Government (General) Regulation 2005*.

57. Final certification – tree protection

Following the final inspection and the completion of any remedial 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 conditions of development consent and specifications for tree protection as above and AS 4970-2009.

58. Final Certification - Acoustics

Following the final inspection a qualified Acoustic Consultant must provide certification that the building has been constructed in accordance with the

recommendations of the submitted Noise Assessment Report prepared by Acoustic Logic.

59. Safety and Security

This site must include the following elements in **Stages 2 and 3**:

- a) Re-design lighting, signage and appropriately secure plant and equipment throughout the centre;
- b) Installation of IP Network surveillance cameras covering vehicle and pedestrian entry into the site;
- c) All retail entrances and centre or spinal aisle stalls should facilitate observation;
- d) The ceiling of the undercroft car parking level is to be painted white and overhead lighting should exceed the minimum lux levels;
- e) The driveway and basement car parking must be illuminated with low luminance at all times;
- f) Surveillance cameras must be installed at level 1;
- g) A help point must be located on level 1; and
- h) Vandal resistance coatings to be applied to non-glazed building façade surfaces.

OPERATIONAL CONDITIONS

60. Noise

The site must be managed so that neighbouring properties are not adversely affected by 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 and the following requirements:

- a) Noise generated by the development must not exceed background noise levels by more than 5dB at adjacent premises;
- b) Noise generated by the development in the night time period (10.00pm to 7.00am Monday to Saturday and before 8.00am Sunday) is not to be audible within any habitable room in any residential property;
- c) Vehicles entering or leaving the site during the night time period are to use a direct route to enter or depart the area immediately;
- d) The use of the premise must be controlled so that any emitted noise is at a level so as not to create an “offensive noise” as defined in the Protection of the Environment Operations Act 1997 to any affected receiver; and
- e) Noise complaints must be recorded by the site Manager, dealt with promptly and resolved by consultation with the complainant or Council.

61. Use of Premises

- a) The development approved under this consent shall be used for “shops”, “medical centre” and “offices” and not for any other purpose without Council’s separate written consent.
- b) The use of the car park is to be in conjunction with the primary land use for the subject site.

62. Hours of Operation

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

a) Shopping Centre Hours

- i) Monday to Wednesday, Friday 9 am to 5:30 pm
- ii) Thursday 9 am to 9 pm
- iii) Saturday 9 am to 5 pm
- iv) Sunday & Public Holidays 10 am to 4 pm

b) Delivery/Loading Dock Hours

- i) Monday to Sunday 6 am to 10 pm

c) Mechanical Sweeper (Car Park) Hours

- i) Monday to Saturday 6 am to 7 pm
- ii) Sunday 8 am to 7 pm

63. 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.

64. Landscape Establishment

The landscape works must be maintained into the future to ensure the establishment and successful growth of plant material to meet the intent of the landscape design. This must include but not limited to watering, weeding, replacement of failed plant material and promoting the growth of plants through standard industry practices.

65. Car Parking and Deliveries

All car parking must be 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.
- e) Minimum sight lines for pedestrian safety are to be provided at the driveway; and
- f) Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath.

66. Waste Management

- a) The approved on-going waste management practise for the site must not be amended without consent from Council.
- b) The commercial tenants must cart their waste and recycling to the commercial bin storage room along routes that are wholly within the site. Use of the public footpath and vehicular entry to cart waste and recycling is not permitted.
- c) All commercial tenants must keep written evidence on site of a valid contract with a licensed waste contractor(s) for the regular collection and disposal of the waste and recyclables that are generated on site.

GENERAL TERMS OF APPROVAL – NSW RFS

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.

67. Water and Utilities

The provision of water, electricity and gas shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

68. Access

Internal roads shall comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area.

69. Evacuation and Emergency Management

Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006', including the preparation of an emergency/evacuation plan consistent with the NSW Rural Fire Service document titled 'Guidelines for the Preparation of Emergency/Evacuation plan'.

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments.

70. Design and Construction

New construction associated with the child care centre shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack.

71. Landscaping

Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

ADDITIONAL CONDITIONS STAGE 1

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE
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72. Dilapidation Report

A 'Dilapidation Report' is to be prepared by a Chartered structural Engineer detailing the structural and serviceable condition of all public assets adjoining the proposed works. The Report shall be included with the application for the Construction Certificate.

73. Water Quality and Stormwater Drainage

The stormwater drainage system for the development must be designed generally in accordance with the approved plans, Council's *HDGP2013*, Council's *Civil Works – Design and Construction Specification 2005* and the following requirements:

- a) The system shall provide for high volume overflows to bypass the water quality treatment system and connected directly to a Council-controlled piped drainage system;

74. Internal Driveway/Vehicular Areas

The driveway and parking areas on site must be designed, in accordance with *Australian Standards 2890.1, 2890.2, 3727* and the following requirements:

- a) For new vehicular access points in Shepherds Drive, design levels at the front boundary shall be obtained from Council by a separate application to Council for Crossing Levels;
- b) Parking structures shall be designed by the Civil or Structural Engineer.
- c) The provision of structural safety rails and walls on all levels adjacent drop offs.

75. **Vehicular Crossing**

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

- a) Design levels at the front boundary must be obtained from Council for the design of internal driveways;
 - i) Subsequently, an engineering longsection of the driveway ramp to the lower basement parking level shall be prepared by the Engineer and submitted for consideration with the construction plans.
- b) Any redundant crossings must be replaced with integral kerb and gutter;
- c) The footway area must be restored by turfing;

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

76. **Road Works**

All road works approved under this consent must be designed in accordance with Council's *Civil Works Design and Construction Specification 2005* and the following requirements:

- a) A detailed design of the proposed right turn bay on Shepherds Drive is to be submitted to Council for comments and referral to the LTC for approval prior to the completion of Stage 1.
- b) Works proposed in the public domain shall be prepared by the Engineer on construction plans, for consideration and approval by Council.
- c) All works impacting on public assets, traffic facilities and modifications to existing facilities proposed shall be approved by Council's Local Traffic Committee (LTC) prior to preparation of the Construction Certificate application for public domain works. A copy of LTC's written approval quoting

engineering plan numbers shall be submitted with the Construction Certificate application for those works.

- d) Pursuant to s138 *Roads Act 1993*, an application for a Subdivisions Construction Certificate (SCC) for works in the public domain shall be made to Council's Planning Division. Council's quoted fees for SCC assessment and compliance inspections shall be paid with lodgement of the Application.
- e) The plans shall detail the location of all public utilities and services. All services and utilities affected by the proposed works shall be adjusted in accordance with the utility standards at the Applicant's cost.
- f) Internal drainage system outflows shall be connected to an existing Council piped drainage system with the following requirements;-
 - i) The connections to Council's drainage pit or pipeline in accordance with Council's Design Standard Junction and Kerb Inlet Pit must be inspected by the Council Engineer.
- g) The submission of compaction certificates from a geotechnical engineer for any fill within road reserves, and all road sub-grade and road pavement materials.
- h) Prior to release of the Occupation Certificate, a Compliance Certificate for public domain works shall be issued by Council.

77. **Bus Shelter upgrade**

Design plans for the provision of a bus shelter in place of the existing bus stop on the southern side of Shepherds Drive adjoining the entry to the site must be submitted to Council and Local traffic Committee for approval and include the following details:

- a) A continuous path of travel with a minimum unobstructed width of 1200mm from the shelter to the passenger boarding point;
- b) Passenger boarding point to comply with Disability Standards for Accessible Public Transport 2002; and
- c) Tactile ground surface indicators in accordance with Australian Standard 1428.4 (Design for access and mobility. Part 4: Tactile ground surface indicators for the orientation of people with vision impairment.

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION

78. **Right-turn bay**

The roadworks in relation to construction of the right turn bay and associated works must be completed to Council's satisfaction.

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.

79. Car Parking and Vehicular Areas

All vehicular areas within the site and the car parking must be constructed 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 requirements:

- a) The driveway to be designed in accordance with the approved plans and the conditions of this development consent;
- b) All parking areas and driveways are to be sealed to an all-weather standard, line marked and signposted;
- c) Four hundred and forty one (441) car parking spaces are to be available on the site for use:
- d) All parking for people with disabilities is to comply with AS/NZS 2890.6:2009 Off-street parking for people with disabilities; and
- e) No landscaping should restrict sightline of drivers or pedestrians.

ADDITIONAL CONDITIONS STAGE 2

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

80. Traffic Signal Design Plans

Details of design for the installation of Traffic Control Signals (TCS) in lieu of the roundabout at the intersection of Shepherds Drive with Kenburn Avenue in front of the vehicular access to the subject site must be submitted to Council and RMS for approval.

81. Section 94 Development Contributions

- a) In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act, 1979* and the *Hornsby Shire Council Section 94 Development Contributions Plan 2014-2024*, the following monetary contributions must be paid to Council to cater for the increased demand for community infrastructure resulting from the development:

Description	Contribution (4)
Roads	\$496,055.22
Open Space and Recreation	\$0
Community Facilities	\$0
Plan Preparation and Administration	\$715.50

TOTAL	\$496,770.72
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being for Stage 2 of the shopping centre expansion of 2,401m² nett GFA, and based on a PVT rate of 7.8 PVT per 100m² GFA for the roads contribution

- b) The value of this contribution is current as at 23 August 2017. If the 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:

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

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 contribution must be paid to Council:
- prior to the issue of the Subdivision Certificate where the development is for subdivision; or
 - prior to the issue of the first Construction Certificate where the development is for building work; or
 - prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
 - 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 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 DURING DEMOLITION AND CONSTRUCTION

82. Bus Shelter Upgrade

The bus shelter upgrade must be completed as per conditions of this development consent and prior to completion of Stage 2 of the development.

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.

83. Car Parking and Vehicular Areas

All vehicular areas within the site and the car parking must be constructed 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 requirements:

- a) The driveway to be designed in accordance with the approved plans and the conditions of this development consent;
- b) All parking areas and driveways are to be sealed to an all-weather standard, line marked and signposted;
- c) Four hundred and eighty nine (489) car parking spaces are to be available on the site for use.
- d) All parking for people with disabilities is to comply with AS/NZS 2890.6:2009 Off-street parking for people with disabilities; and
- e) No landscaping should restrict sightline of drivers or pedestrians.

ADDITIONAL CONDITIONS STAGE 3

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

84. Section 94 Development Contributions

- a) In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act, 1979* and the *Hornsby Shire Council Section 94 Development Contributions Plan 2014-2024*, the following monetary contributions must be paid to Council to cater for the increased demand for community infrastructure resulting from the development:

Description	Contribution (4)
Roads	\$1,092,519.79
Open Space and Recreation	\$0
Community Facilities	\$0
Plan Preparation and Administration	\$1,575.82
TOTAL	\$1,094,095.62

being for Stage 3 of the shopping centre expansion of 5,2881m² nett GFA, and based on a PVT rate of 7.8 PVT per 100m² GFA for the roads contribution

- b) The value of this contribution is current as at 23 August 2017. If the 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:

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

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 contribution 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 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 COMMENCEMENT OF ANY WORKS
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85. Traffic Control Signals

Installation of traffic control signals must be completed in accordance with the approved design plans and prior to commencement of any works associated with Stage 3 of the development.

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.

86. Car Parking and Vehicular Areas

All vehicular areas within the site and the car parking must be constructed 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 requirements:

- a) The driveway to be designed in accordance with the approved plans and the conditions of this development consent;
- b) The Heavy Rigid Vehicle (HRV) and Articulated Vehicle (AV) turning areas and height clearance must comply with the approved plans;
- c) All parking areas and driveways are to be sealed to an all-weather standard, line marked and signposted;
- d) Six hundred and twenty eight (628) car parking spaces are to be available on the site for use.
- e) A total of thirty (30) bicycle spaces are to be provided in the ground level car park. Bicycle parking spaces are to be designed in accordance with AS 2890.3-1993;
- f) Sixteen (16) motorcycle parking space is to be provided within the ground level car park, designed in accordance with AS 2890.5-1993;
- g) All parking for people with disabilities is to comply with AS/NZS 2890.6:2009 Off-street parking for people with disabilities; and
- h) No landscaping should restrict sightline of drivers or pedestrians.

- 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.

Tenancy Fit-Out – Separate DA Required

This consent does not permit the fit-out of individual tenancies. A separate development application is required for the fit-out of individual tenancies prior to the occupation of the building.

Advertising Signage – Separate DA Required

This consent does not permit the erection or display of any advertising signs. Most advertising signs or structures require development consent. Applicants should make separate enquiries with Council prior to erecting or displaying any advertising signage.

Dial Before You Dig

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

Telecommunications Act 1997 (Commonwealth)

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

Asbestos Warning

Should asbestos or asbestos products be encountered during demolition or construction works, you are advised to seek advice and information 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

www.nsw.gov.au/fibro

www.adfa.org.au

www.workcover.nsw.gov.au

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