



## SYDNEY CENTRAL CITY PLANNING PANEL

### COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2017SWC104
<b>DA Number</b>	DA/754/2017
<b>LGA</b>	City of Parramatta
<b>Proposed Development</b>	Demolition of three buildings on site; removal of 8 trees, removal of one portable building; construction of a three storey building comprising an educational establishment with a library, learning rooms and amenities, alterations and change of use of rooms within existing building A. The proposed number of students will be increased to 736 (from 414).
<b>Street Address</b>	27-33 Pembroke Street, Epping
<b>Applicant</b>	TSA Management – Ian Guthrie
<b>Owner</b>	NSW Department of Education
<b>Date of DA lodgement</b>	1 September 2017
<b>Number of Submissions</b>	5 Submissions
<b>Recommendation</b>	Approval subject to conditions
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	Pursuant to Clause 5 of Schedule 4A of the Environmental Planning and Assessment Act 1979, Crown development that has a capital investment value of more than \$5 million.
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979</li> <li>• Environmental Planning and Assessment Regulations 2000</li> <li>• SEPP (Educational Establishments and Child Care Facilities) 2017</li> <li>• SEPP Infrastructure 2007 (No longer applies to educational establishments)</li> <li>• SEPP 55 Contaminated Lands</li> <li>• SEPP (Vegetation in Non-Rural Areas) 2017</li> <li>• Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• Hornsby Local Environmental Plan 2013</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Statement of Environmental Effects</li> <li>• Clause 4.6 Variation</li> <li>• Architectural Drawings</li> <li>• Traffic Impact Assessment Report</li> <li>• Flora and Fauna Impact Assessment Report</li> <li>• Contamination Assessment Report</li> <li>• Disability Discrimination Act Compliance Report</li> <li>• Waste Management Plan</li> <li>• Statement of Heritage</li> <li>• Civil and Stormwater Design Report and Plans</li> <li>• Acoustic Assessment Report</li> </ul>

	<ul style="list-style-type: none"> <li>• BCA Report</li> </ul>
<b>Report prepared by</b>	Anthony Blood Senior Planner, Development Services
<b>Report date</b>	1 March 2018

#### **Summary of s4.15 matters**

Have all recommendations in relation to relevant section 4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

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#### **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**

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

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

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#### **Special Infrastructure Contributions**

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

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#### **Conditions**

Have draft conditions been provided to the applicant for comment? **Yes**



<b>City of Parramatta Council</b>	
File No:	DA/754/2017

## **SECTION 4.15 ASSESSMENT REPORT – EDUCATIONAL ESTABLISHMENT**

### **Environmental Planning & Assessment Act 1979**

#### **SUMMARY**

DA No:	DA/754/2017
Property:	Lot 4 Sec 13 DP 758390, Lot 5 Sec 13 DP 758390, Lot 6 Sec 13 DP 758390, Lot 7 Sec 13 DP 758390, Lot 8 Sec 13 DP 758390, Lot 9 Sec 13 DP 758390, Lot 10 Sec 13 DP 758390, Lot 11 Sec 13 DP 758390, Lot 12 Sec 13 DP 758390, Lot 13 Sec 13 DP 758390, EPPING P/S, 27-33 Pembroke Street, EPPING NSW 2121
Proposal:	Demolition of three buildings on site; removal of 8 trees, removal of one portable building; construction of a three storey building comprising an educational establishment with a library, learning rooms and amenities, alterations and change of use of rooms within existing building A. The proposed number of students will be increased to 736 from (414). The application will be determined by the Sydney Central City Planning Panel.
Date of receipt:	1 September 2017
Applicant:	NSW Department of Education C/o TSA Management
Owner:	NSW Department of Education
Property owned by a Council employee or Councillor:	The site is not known to be owned by a Council employee or Councillor
Political donations/gifts disclosed:	None disclosed on the application form
Submissions received:	5 submissions received
Recommendation:	Approval
Assessment Officer:	Anthony Blood

## Legislative requirements

Environmental Planning Instruments	<ul style="list-style-type: none"> <li>• SEPP (Educational Establishments and Child Care Facilities) 2017</li> <li>• SEPP Infrastructure 2007 (No longer applies to educational establishments)</li> <li>• SEPP 55 Contaminated Lands</li> <li>• SEPP (Vegetation in Non-Rural Areas) 2017</li> <li>• Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• Hornsby Local Environmental Plan 2013</li> </ul>
Zoning	R2 – Low Density Residential
Bushfire Prone Land	No
Heritage	Yes
Heritage Conservation Area	Yes
Integrated development	No
Clause 4.6 variation	Yes – Height
Crown Development	Yes
Delegation	Sydney Central City Planning Panel

## SITE DESCRIPTION AND CONDITIONS

The subject site is known as 27-33 Pembroke Street, Epping. The property description is Section 4-13 Lot 13 on DP758390. The site is an irregular shaped allotment. The building envelope for the proposed building has a 1.5m slope from the North to the South of approximately 1.5m metres over a distance of 40m metres.

The subject site has the following area and dimensions:

Area – 19.1 hectares  
 Frontage – 119 metres to Pembroke Street  
 Secondary Frontage – 191 metres to Norfolk Road  
 Northern – 88 metres  
 Eastern – 172 metres

The surround area is characterised by medium density residential along Norfolk Road and high density residential containing recently constructed 5-6 storey residential flat buildings along Pembroke Street. Epping train station is located approximately 500m west of the subject site.

The site was inspected on 12 September 2017



**Figure 1:** Aerial image of the site.

**Site History:**

Date	Comments
5 June 2017	PL/47/2017 – A pre-lodgement meeting was held to discuss the potential development of the site. A 3 storey educational establishment was proposed. The proposed development is adjacent heritage item 385 (Administration building A). The scale of the proposal should be kept to a minimum and reflect the scale of the heritage item and existing built form. A full and proper assessment of the proposal could not be undertaken due to the lack of scaled architectural plans including floor plans, elevations, roof plans and materials.

## SECTION 4.15 EVALUATION

The proposal seeks approval for alterations and additions to an existing educational establishment including demolition of an existing building, construction of a new 3 storey classroom building, covered basketball court and internal alterations to the existing administration building.

The subject site is zoned R2 Low Density Residential under Hornsby Local Environmental Plan 2013. The proposed development is permissible as an Educational Establishment.

The application is made pursuant to State Environmental Planning Policy (Educational Establishments and Child Centre Facilities) 2017. The Crown development application has a Capital Investment Value (CIV) of more than 5 million, as such the Sydney Central City Planning Panel has the function of determining the application in accordance with Section 23G of the Environmental Planning and Assessment Act 1979.

The proposed development was advertised in the local newspaper and notified to the owners and occupiers of adjoining and nearby properties for a period of 21 days between 14 September 2017 to 16 October 2017, with 5 submission received. The submissions related to car parking/traffic congestion, tree removal and active recreational area.

The proposed development is in accordance with the relevant provisions of the environmental planning instruments pertaining to the land. An assessment of the proposed development under the Environmental Planning and Assessment Act 1979 has been undertaken and the proposal has been found to be satisfactory.

A variation of 6m or 42% is sought with respect to the height of the building, which on balance is considered acceptable. The proposed development is unlikely to have a negative impact on the surrounding environment. The site is suitable for the proposed development and is in the public interest.

The proposal is therefore worthy of support. This report recommends that the application be approved subject to recommended conditions of consent.

## THE PROPOSAL

The application is made pursuant to State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017, gazetted 1 September 2017. The proposal is a new Educational Establishment involving the following aspects:

- Demolition of 3 permanent buildings and removal of 1 portable building;
- Removal of 8 trees;
- The construction of 3 storey educational establishment containing;
  - Ground floor library;
  - 22 Learning rooms;
  - 1 special programs room;
  - 10 Group learning rooms; and
  - Male and female amenities on each level;
- Increasing student numbers from 414 to 736 (322);
- Internal renovations of Building A (Local Heritage item 385);
- Reduction of onsite car parking from 12 to 8.



Figure 2 – View from Norfolk Road





Figure 3 – View from Pembroke Street and Norfolk Road

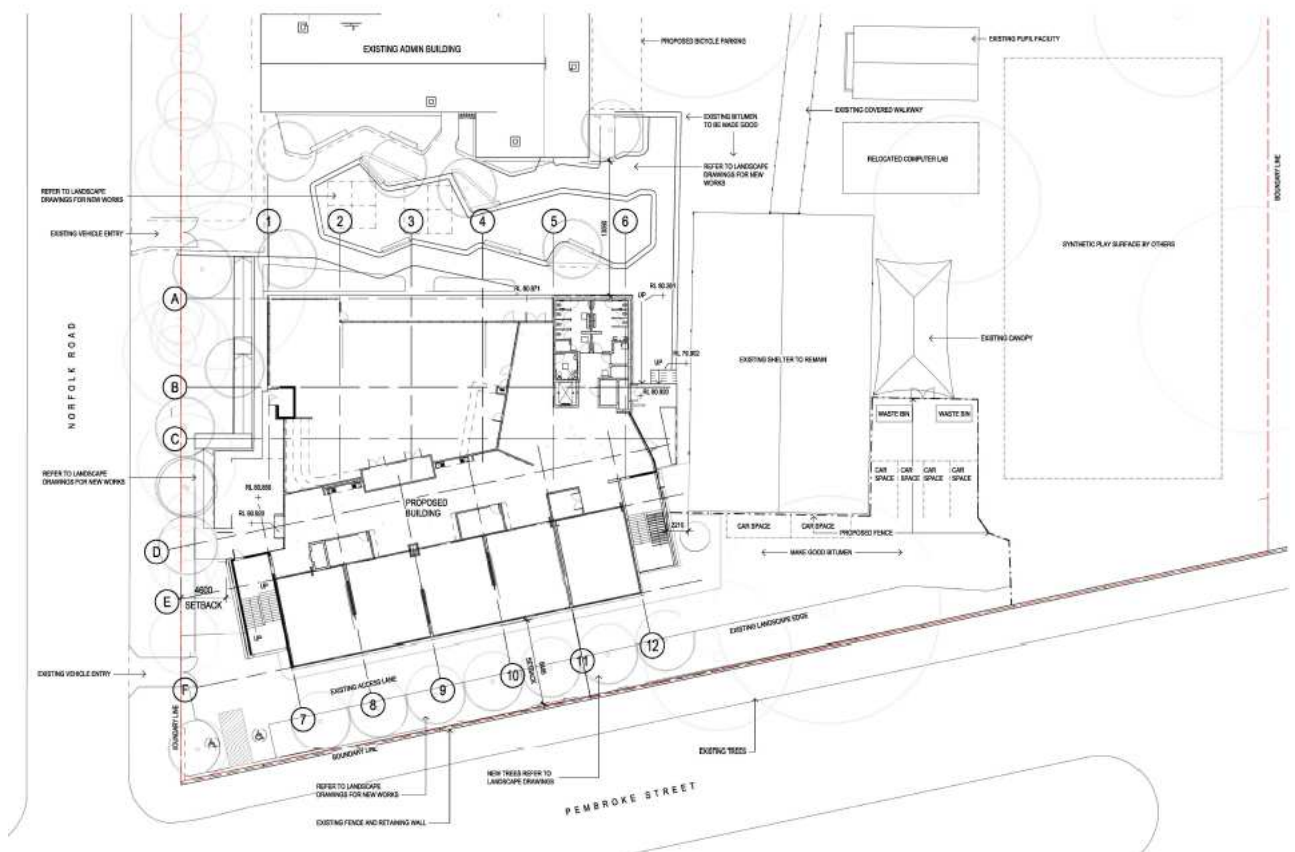


Figure 4 – Site Plan/Building Footprint



## PERMISSIBILITY

The site is zoned R2 – Low Density Residential under the provisions of Hornsby Local Environmental Plan (HLEP) 2013. The proposed use is defined as a ‘*educational establishment*’ which is permissible with development consent in the R2 zone.

## Zone Objectives

The proposed development is consistent with the aims and objectives of the R2 Low Density Residential zoning applying to the land as the proposed works:

- Are located in a context and setting that minimises impacts on the amenity of the residential environment;
- Include a building form that is in character with the surrounding built environment, and
- Are of a bulk and scale that maintains suitable residential amenity for adjoining sites.

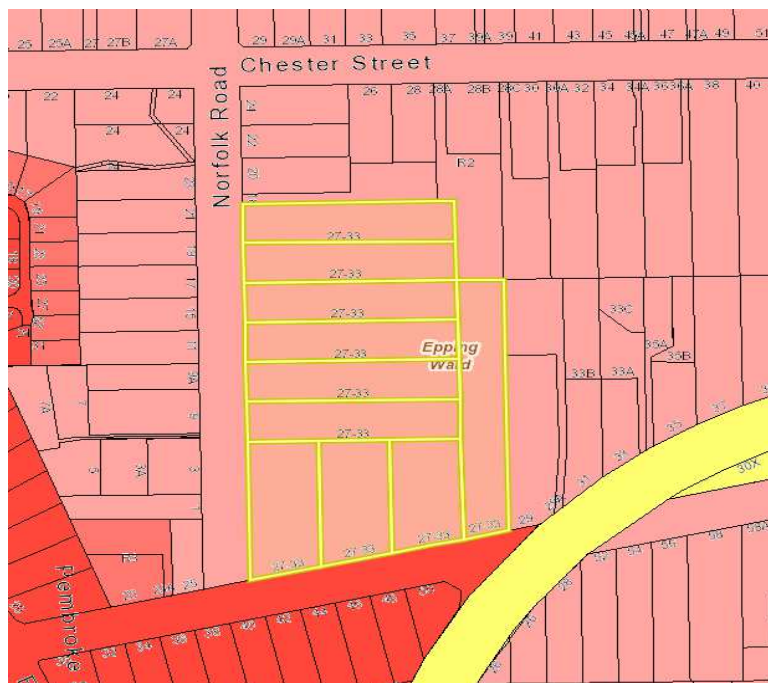


Figure 5 – (Zoning Map) Key – Light Pink R2 Low Density Residential, Dark Pink R3 Medium Density Residential and Red R4 High Density Residential.

## ENVIRONMENTAL PLANNING INSTRUMENTS

### STATE ENVIRONMENTAL PLANNING POLICY 55 – REMEDIATION OF LAND

The site is not identified in Council's records as being contaminated. A Site inspection reveals the site does not have an obvious history of a previous land use that may have caused contamination and there is no specific evidence that indicates the site is contaminated.

## **STATE ENVIRONMENTAL PLANNING POLICY (VEGETATION IN NON-RURAL AREAS) 2017**

The application has been assessed against the requirements of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017. This Policy seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The application proposes the removal of non-native vegetation from the site and the replacement of native vegetation as part of the landscape plan. Council's Tree and Landscape Officer has raised no objections to the removal of the vegetation from the site subject to conditions of consent requiring sensitive construction methods used to protect adjacent vegetation.

## **STATE ENVIRONMENTAL PLANNING POLICY (STATE AND REGIONAL DEVELOPMENT) 2011**

This application is captured by Part 4 of this SEPP which provides that the SCCPP is the consent authority for this application.

## **SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT) 2005 (DEEMED SEPP)**

The site is not located on the foreshore or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposal. The proposal is consistent with the controls contained with the deemed SEPP.

## **STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007**

State Environmental Planning Policy (Infrastructure) 2007 no longer applies to the proposal due to the introduction of State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017, which is addressed below.

## **STATE ENVIRONMENTAL PLANNING POLICY (EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES) 2017**

The Development Application seeks consent for an *Educational Establishment*, pursuant to SEPP (EECCF) 2017. Below is an assessment against Part 4 Schools – specific development controls;

<b>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</b>		
<b>Requirement</b>	<b>Proposal</b>	<b>Compliance</b>
<b>Part 4 – Schools – Specific Development Controls</b>		
<b>33 Definition of “prescribed zone”</b>	The site is zoned R2 Low Density Residential, which is identified as a prescribed zone within the definition.	Yes
<b>34 Development for the purpose of student</b>	Not applicable	N/A

<b>accommodation</b>		
<b>35 Schools – Development permitted with consent</b>	Schools are permissible with consent in any prescribed zone (including R2).  Clause 35(9) advises that any requirement, standard or control included in a DCP is of no effect when related to a school.	Yes
<b>36 Schools – Development permitted without consent</b>	The proposal is increasing student and staff numbers in excess of 10%.	Development Consent is Required
<b>37 Notification of carrying out of certain development without consent</b>	Not applicable	N/A
<b>38 Existing schools – exempt development</b>	The proposal is not considered to be exempt development.	N/A
<b>39 Existing schools – complying development</b>	Not applicable	N/A
<b>40 School-based child care – complying development</b>	Not applicable	N/A
<b>41 Complying development certificates – additional conditions</b>	Not applicable. The proposed development is not State significant.	N/A
<b>Part 7 General development controls</b>		
<b>57 Traffic Generating development</b>	The proposed development application seeks to increase student numbers by 322. As a result, the development application was referred to RMS for comment. RMS provided a response dated 29 September 2017 sighting concerns with the lack of on-site parking, pick up/drop off points, bicycle parking and the need to provide a “Construction Pedestrian Management Plan” and “Traffic Impact Assessment” addressing current pick up/drop off arrangements. Please see discussion regarding RMS’s response below.	No

The proposal therefore satisfies the standards contained in SEPP (Educational Establishments and Child Care Facilities) 2017.

RMS Comments	Applicant's Comments	Council Comments
Whilst Roads and Maritime raises no objections to this application, Roads and Maritime offers the following advisory comments to Council for consideration:		
Roads and Maritime notes that the current number of parking spaces available for staff working on the site is 12 parking spaces. However, the proposed development suggests that the existing twelve spaces will be reduced to two spaces, even though staff numbers will increase from 18 to 32. Roads and Maritime is concerned that the loss of onsite car parking will create potential impacts on the surrounding street network. Consideration should be given by the proponent to how these impacts will be mitigated	As a result of this concern on-site parking has been increased to a total of 8 formal on-site spaces for staff. This has been achieved by providing 6 additional parking spaces along the service driveway including 4 spaces in front of the Waste bins storage area. It is noted that waste collection will be scheduled to occur outside of hours when staff are in attendance.	Traffic acknowledge that the car parking rates within the Hornsby DCP cannot be enforced due Clause 35(9) of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017. As a result, the additional car parking provided in response to the information request is considered to be a positive outcome.
<p>It is also suggested in the Traffic Impact Assessment (TIA) that the current 'pick-up'/'drop-off' arrangements for the school experience high demand and as the site proposes to increase in student numbers, this could require an increase in the current 'pick-up'/'drop-off' location. Roads and Maritime notes that the TIA suggests that the adjacent bus zone on the east side of Norfolk Road could be converted into additional 'pick-up'/'drop-off' space, which is not supported by Roads and Maritime.</p> <p>The catchment for the additional students has not been finalised and school buses may be required at this location, with potential coaches/buses using this space to service the site for excursions. It is recommended that the proponent devise an access</p>	The Traffic Impact Assessment has been updated and no longer suggest that the bus stop on the eastern side of Norfolk Road could be converted to a drop off zone. The TIA suggests that additional pick up/drop off arrangements could occur on the eastern side of Norfolk Road but not through the conversion of the current bus bay.	The surrounding road network provides limited opportunity for additional pick up/drop off points. Because the development application is for Crown development, Council is unable to impose additional pick up/drop off locations without agreement from the applicant. As such, no conditions of consent relate to providing additional pick up/drop off locations.

strategy to the site that indicates how additional 'pick-up'/'drop-off' space can be accommodated whilst retaining the Norfolk Road bus zones.		
Bicycle parking associated with the subject development should be in accordance with AS 2890.3 (Bicycle Parking Facilities). Consideration should also be given to providing end-of-trip facilities within the development to support and encourage active transport to the site for both staff and students.	The proposed development will incorporate 60 bicycle parking spaces. End of Trip facilities are provided for staff within the Administration Building.	Noted.
A Construction Pedestrian Traffic Management Plan (CPTMP) 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.	Noted. It is anticipated that Council will recommend imposing a condition requiring this.	Condition of consent has been imposed.

### **SEPP (Educational Establishments and Child Care Facilities) 2017 - Schedule 4 Schools – Design Quality Principles**

The table below summaries Conrad Garget AMW's response to the SEPP (Education Establishments and Child Care Facilities) 2017 - Schedule 4 Schools - Design Quality Principles the outcomes set out within the Design Guide for Schools by the Government Architect NSW.

Principle 1 – context, built form and landscape	<p>The design of the proposed development responds to the qualities and identity of the area with respect to its relationship to adjoining sites, streetscape and neighbourhood. The development contributes to the context of the area, in particular, the desired future character of the area. The bulk and scale of the development is suitable for the context of the area.</p> <p>The proposed new building street setback is consistent with the schools existing buildings and is not considered to result in an undue negative impact of the surrounding built form, but rather will appear as a three storey building in a garden setting.</p> <p>Landscape has been integrated into the design of school</p>
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	<p>development to enhance on-site amenity, contribute to the streetscape and mitigate negative impacts on neighbouring sites. Consideration of the existing built form, vegetation and significant trees has been considered. New landscape planting around the site will enhance opportunities for play within shaded areas.</p>
Principle 2 – Sustainable, efficient and durable	<p>The building is designed to maximise natural ventilation and in accordance with the Department of Education policy does not incorporate air-conditioning. The design for the subject site has an obligation to establish a positive benchmark in terms of the interpretation of planning objectives for a public benefit (i.e. new school infrastructure).</p> <p>The development incorporates solar panels on the roof of the building that will assist to reduce the schools demand for electricity. The building is constructed of durable materials that are low maintenance and utilise the Department of Education's experience in minimising on-going maintenance costs.</p> <p>The internal planning of the school building ensures that it is adaptable and contains opportunities for break out spaces and group learning that is consistent with modern educational practices rather than only incorporating traditional class rooms.</p>
Principle 3 – Accessible and inclusive	<p>The new building incorporates a lift that provides shared accessible and ambulant access throughout the building. Existing shared accessible and ambulant pathways of travel are integrated with the existing campus access points and allow visual surveillance from existing and new school facilities. This considers the impact of circulation times on timetables and pedagogical models, particularly when accessing core learning spaces.</p> <p>The development will incorporate appropriate wayfinding signage to assist visitors and first time users with identifying key areas within the site. Safe access has been maintained within the existing development, the new building will be accessed from within the school grounds and existing entry gates along Norfolk Road.</p>
Principle 4 – Health and safety	<p>The design aims to provide a healthy and safe environment for all school users. The design utilises multiple strategies including:</p> <p>The proposal has reviewed the CPTED principles and provides delineation through a combination of landscaping and fencing to the 'public' areas of the site when the school is operating. Building and façade window design have been adequately located to optimise natural ventilation and direct solar access.</p>



	<p>Toilet facilities have been provided on all levels of the new school building. Clear transition and boundaries between public and private space are provided from Norfolk Road and within the school grounds.</p>
Principle 5 – Amenity	<p>The school provides a variety of internal and external learning places that are suitable for formal and informal educational opportunities for students. The new building incorporates appropriate storage spaces for teachers, students the school and for community users.</p> <p>The proposal has been located to minimise the visual impact on surrounding buildings, and incorporate adequate landscaping that will assist in partially screening the new buildings and provide a landscaped outlook from both within the site and for views into the site.</p> <p>The building maximises natural light penetration through the appropriate use of glazing and facilitate natural cross ventilation. The buildings incorporate acoustic absorbing materials and is appropriately setback from boundaries to reduce excessive noise transmission.</p> <p>Consideration and amenity of adjacent development and the local neighbourhood has been considered within massing and integration of the building into the current topography of the site and street frontage.</p>
Principle 6 – Whole of life, flexible and adaptive	<p>The design of the building considers the future needs of the school and the new learning centre has been designed to incorporate both formal learning areas and informal learning spaces, allow for combined educational opportunities and maximise the opportunities for the adaptive use of the building as technology is increasingly used in classrooms by both educators and students.</p> <p>A masterplan analysis was conducted by the applicant that investigated the school site to allow siting options for future potential growth. Assessment of site in-ground conditions, contamination, flora and fauna, flooding, drainage and erosion, noise and traffic generation has been considered in the design.</p>
Principle 7 - Aesthetics	<p>The proposed built form is appropriate with regard to the composition of building elements, textures, materials and colours which reflect the use, internal design and structure of the building. The proposed building responds aesthetically to the environment and context, and appropriately contributes to the desired future character of the area.</p>

## **COMPLIANCE TABLE – HORNSBY LOCAL ENVIRONMENTAL PLAN 2013**

On 12 May 2016, Local Government (City of Parramatta and Cumberland) Proclamation 2016 was gazetted; creating the City of Parramatta. Hornsby Local Environmental Plan 2013 still applies to the land previously within the Hornsby Shire Council.

The relevant matters to be considered under Hornsby Local Environmental Plan 2013 for the proposed development are outlined below.

### **Clause 2.3 Zone Objectives and Land Use Table**

The subject site is zoned R2 Low Density Residential under the provision of Hornsby Local Environmental Plan 2013. Under the Hornsby Local Environmental Plan 2013, an *educational establishment* is permissible in a R2 Low Density Residential Zone. The objectives of this zone are as follows;

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

### **Clause 2.7 Demolition requires development consent**

Clause 2.7 of HLEP 2013 states that the demolition of a building or work may be carried out only with development consent. The application seeks consent for demolition works. Council's standard conditions relating to demolition works are included in the recommendation.

### **Clause 4.3 Height of Building**

A maximum building height of 8.5 metres applies to the R2 Low Density Residential. The proposed building has a height of 14.5m or 42% departure from the development standard. The applicant's Clause 4.6 justification is generally agreed with, and the variation to the height is supported for the reasons outlined in this report. Refer to Clause 4.6 below.

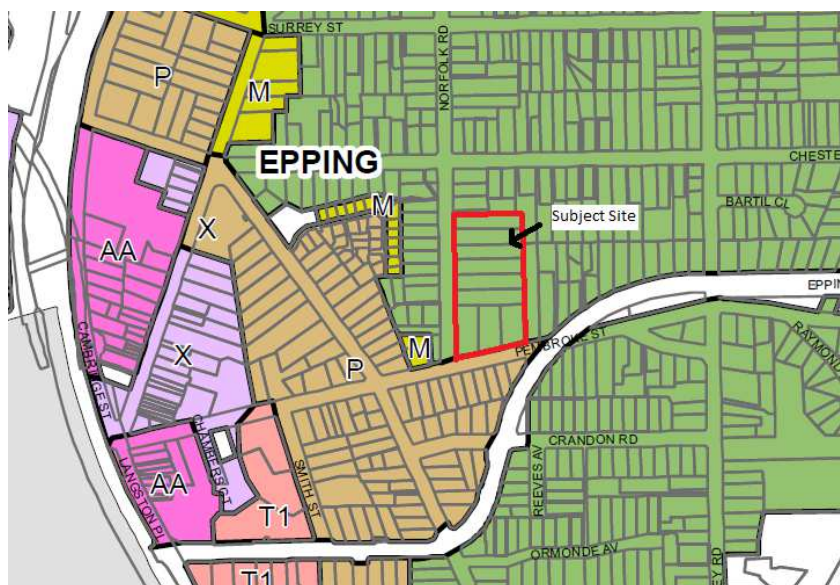


Figure 6 – (Height of Buildings Map) Key - Green (I) = 8.5m, Yellow (M) = 12m and Brown (P) = 17.5m

#### Clause 4.4 Floor Space Ratio

No Floor Space Ratio applies to the site.

#### Clause 4.6 Exceptions to development standards

#### Objectives of Clause 4.6 of the HLEP 2013

1. *The objectives of this clause are as follows:*
  - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

A request for an exception under Clause 4.6 was lodged with the application as the proposed development exceeds the maximum height for the site permitted by Clause 4.3 of HLEP 2013. The variation sought is as follows:

Maximum height under PLEP 2011	Proposed	Degree of variation and merit
8.5 metres	14.5m	14.5m or 42% departure

The applicant has provided the following justification for the non-compliance with the development standard:

- *The development proposal will align with the desired future character of the area;*
- *The proposed built form relates to the context in terms of scale and topography, with the upper levels being recessed from the building edge to downplay visual dominance, ensuring that the visual impact of the encroachment is minimised;*
- *The development proposal is consistent with the intent of the maximum height control and will provide an attractive building that will address both Pembroke Street and Norfolk Road;*

- The non-compliance is partially a result of Hornsby Council utilising the standard LEP template that replaced the former Special use zoning of the site with the low density R2 zoning that applies opposite the site. Prior to this LEP, a height control did not apply to the site; and
- The development is consistent and compatible with the emerging 5 -6 storey built form emerging on the southern side of Pembroke Street where a height limit of 17.5m applies;
- The development is compatible with the likely future height of buildings on the western side of Norfolk Road with the Epping Planning review recommending a 12m height limit apply to these properties;
- The variation will not have any adverse amenity impacts. In this regard, it is noted:
  - The variation will not lead to the reduction in solar penetration on site or to adjoining properties nor will it lead to excessive sunlight loss or overshadowing
  - The proposed variation will not lead to view loss or interrupt on views to and from the site
  - The proposed variation will not lead to a reduction in privacy afforded to existing residents or future residents of the proposal
- The proposal has been designed to ensure that privacy impacts are mitigated that the proposal will not obstruct existing view corridors with appropriate side setbacks provided to promote view sharing opportunities
- Detailed shadow analysis demonstrates that properties to the south still achieve adequate solar access to open space and living areas with this development only casting shadow to the front setback areas;
- The on-compliance to the height control has no unacceptable impact on the setting of any items of environmental heritage or view corridors;
- The proposal adjoins the Epping high density residential zone, that is located on the southern side of Pembroke Street and contains 5-6 storey residential flat buildings and the proposal represents an appropriate built form on the site; and
- The infrastructure of the area is capable of supporting the expanded school.

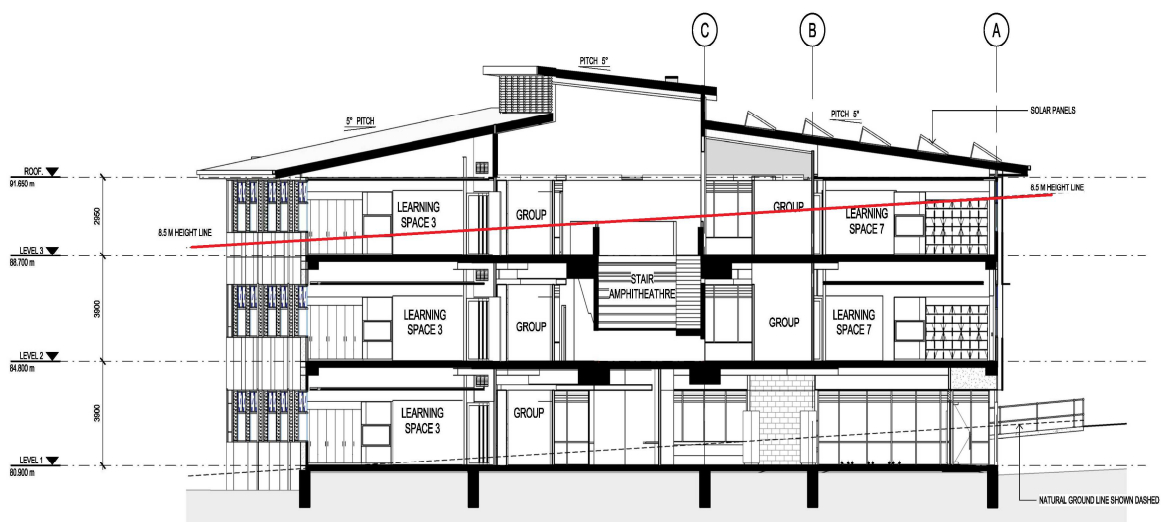


Figure 7 – Clause 4.6 Height Variation

#### Assessment of the exception under clause 4.6:

In assessing an exception to vary a development standard, the following needs to be considered:

### **1. Is the planning control a development standard?**

Yes, Clause 4.3 *Height of Buildings* is a development standard.

### **2. What is the underlying object or purpose of the standard?**

The objectives of Clause 4.3 of HLEP 2013 is to nominate heights that will provide a transition in built form and land use intensity whilst minimising visual impact, disruption to views, loss of privacy and solar access to existing development.

### **3. Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 1.3 of the EPA Act?**

Compliance with the development standard would be inconsistent with the EPA Act, which aims to provide planning controls that encourage sustainable development, being development which satisfies the principles of ecological (environmental, economic and social) sustainability.

The non-compliance is considered to be acceptable. A variation of up to 42% (6m) in height is proposed to accommodate the third floor of the educational establishment. The building is sited on the corner of Pembroke Street and Norfolk Road. The shadow diagrams illustrate that the proposed building will not cast shadows over any surrounding residential properties and therefore will not unduly diminish solar access.

### **4. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?**

It is considered that it would be unreasonable to require the development to comply with the maximum height of buildings for development in the R2 Low Density Residential zone, as the scale of the proposed building is proportionate with the school use and operational requirements. In addition, Pembroke Street and Norfolk Road create a physical separation that protects residential amenity and generally complies with the development provisions.

The departure to the standard will accommodate additional floor space for the educational establishment and in this instance does not, result in any adverse impacts to adjoining properties with regards to privacy, acoustic amenity and over shadowing.

### **5. Is the exception well founded?**

In *Wehbe v Pittwater Council* [2007] NSW LEC 827 Chief Justice Preston of the NSW Land and Environment Court provided further guidance to consent authorities as to how variations to the standards should be approached. Justice Preston expressed the view that there are 5 different circumstances in which an objection may be well founded:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the

- Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Given the proposed development;

- Is consistent and compatible with the emerging 5 -6 storey built form on the southern side of Pembroke Street where a height limit of 17.5m applies;
- Is compatible with the likely future height of buildings on the western side of Norfolk Road;
- The subject site is highly constrained with limited opportunity for expansion given the location of existing school facilities. The R2 Low Density Residential zoning is deemed to be restrictive with regards to the prescribed height limit of 8.5m as it relates to an educational use. Therefore a departure from the development standard is deemed necessary to support the growth of the educational establishment.

That the Clause 4.6 exception to the development standards of Clause 4.3 Height of Buildings in the Hornsby LEP 2013, is considered to be well founded and worthy of support.

### Clause 5.10 Heritage Conservation

The subject site contains Local Heritage Item 385 "Epping School" and is located within East Epping Conservation Area C9. The applicant has provided a Heritage Impact Assessment as supporting information. Council's Heritage Advisor is satisfied that the proposal will not unduly impact upon the existing heritage item 385.



Figure 8 – Heritage Map



## COMPLIANCE TABLE – HORNSBY DEVELOPMENT CONTROL PLAN 2013

As noted above, Section 35 subclause (9) of the SEPP (Educational Establishments and Child Care Facilities) 2007, states that any requirement, standard or control included in a DCP is of no effect when related to a school.

### REFERRALS

<b>Parramatta Design Excellence Advisory Panel (DEAP)</b>		
The proposal was considered by DEAP at the formal DA stage at its meeting of 9 November 2017. In summary, DEAP noted the following matters:		
<b>DEAP</b>	<b>Applicant</b>	<b>Planner</b>
Given the limited alternative opportunities for the placement of such a large building within the school grounds, the Panel accepts the siting for the building and recognises that it assists in creating a well-defined, useful, safe and amenable open space for students.	Noted	Noted
Whilst the concept of juxtaposing a new, contemporary building with a heritage item can work in principle, given the scale disparity between the proposed building and the heritage item, the Panel considers that the architectural character of the new building needs to be more recessive so as to not dominate the adjacent heritage item. In particular, it is recommended that the materials and colours (at least of the north and west elevations) be re-considered with the view of creating a more harmonious (rather than deliberately contrasting) relationship with those of the heritage item. The use of large areas of light coloured panelling in the elevations closest to the heritage item is particularly inappropriate.	<p>As a result of these comments, the design has been refined further and demonstrated in new renderings which include a revised colour and texture palette. This includes darker wall colours and spandrel panel treatments to reduce the apparent bulk and increase the visual relationship with the heritage building.</p> <p>In particular, the revised scheme provides darker more visually recessive colours and materials more generally and in particular adjacent to the heritage building. The refined building is also more visually transparent and simplified through the removal of vertical louvre elements. Copper coloured metal spandrel elements have</p>	The amended colour scheme compliments the brick façade of the heritage building and represents a better relationship between the proposed building and the existing heritage item. As a result, the amended colour scheme is supported.

<p>The Panel notes that the form of the building is strongly influenced by economic constraints and the project's functional brief, which internalises common learning and circulation spaces and results in a building of significant scale and mass. It is therefore recommended that the architects investigate ways of reducing the scale and visual impact of the building. The Panel therefore suggests that the architects review the articulation, scale, fenestration and materiality of the existing heritage items and consider how these qualities may influence the new project to address this concern. Consideration could be given to the introduction of a recessed veranda on the north and west elevations as a means of reducing the building's visual scale. Tree planting in the zone between the two buildings may also assist in this regard.</p>	<p>been introduced on the north and south elevation to add durable and elegant surfaces in tones relating to the brick heritage building.</p> <p>Please refer to the updated renderings attached – Refer Drawings DA-AR-0500 – Photomontages, 501 Renders, 5000 Building fabric Finishes.</p>	
<p>The Panel questions the reasoning for the coloured bar facade treatment, particularly for the prominent corner staircase. It is ambiguous: is it public art or simply a decorative treatment of a blank wall? Either way a stronger rationale is recommended, especially if the design narrative has some relationship to the school context.</p>	<p>The architects advise that the colour insets serve to introduce a splash of bright primary colour to the darker corner elements and introduce a playful contrasting note indicative of the primary colour preferences of young children. This is illustrated on the updated renderings.</p>	<p>The applicant response is deemed acceptable.</p>
<p>The removal of the large Camphor laurel tree adjacent to Norfolk Road is not supported by the Panel. This would have been contemporary with the original school building and</p>	<p>The revised proposal facilitates the retention of the Camphor Laurel Tree.</p>	<p>Noted. Amended landscaping plans have been provided.</p>

<p>should be regarded as a landscape heritage item. It should be retained as an integral part of the heritage landscape setting of the school. It also relates to the large camphor laurel in front of the historic dwelling on the opposite side of Norfolk Road. Retaining the tree will also provide partial screening, and reduce the scale impact, of the new building. Recommendations for tree protection during construction and judicious pruning of branches should be provided by a qualified arborist.</p>		
<p>The planting palette should consist of predominantly indigenous native trees and shrubs; appropriate shrub species from earlier plantings associated with heritage buildings could also be incorporated to achieve a more unified landscape character and street frontage.</p>	<p>The planting palette has been refined and incorporates predominantly native plant selections from the approved Department of Education plant lists and council's preferred species as well as an extend existing site species.</p> <p>Given the revised palette it is considered that the revised scheme will result in a more unified landscape character and street frontage.</p>	<p>The proposed plant species align with Council's preferred species list. As a result, the amended landscaping plan is supported.</p>
<p>The applicant should provide detailed 1:20 wall sections through each proposed façade type, particularly addressing how rainwater goods and weather protection devices are integrated into the design.</p>	<p>The revised architectural plans incorporate detailed sections that illustrates how rainwater goods and weather protection devices are appropriately integrated into the design of the building.</p>	<p>Noted.</p>

## INTERNAL REFERRALS

<b>Heritage Advisor</b>	<p>The subject site contains a listed heritage item 385 Epping School and is within the Epping Conservation Area C9. The proposed colour scheme has been changed to complement the existing heritage item. Based on the above, the Heritage Advisor has no further objection to</p>
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	this proposal from a heritage perspective.
<b>Social Outcomes</b>	The Social Outcomes team supports the recommendation in the SEE that the proposal does not cause any negative social or economic impacts and should be supported.
<b>Community Crime Prevention</b>	No objections to the proposed development.
<b>Urban Design</b>	Urban Design sought a Public Domain Alignment Plan to upgrade the footpaths. Because the application is for Crown development, the applicant can object to conditions of consent. The applicant has advised that upgrading the footpath was not in the original scope of works and no budget was allocated for these works, therefore the applicant has not provided a Public Domain Alignment Plan and objects to this condition being imposed. No further comments were sought from Urban Design.
<b>Traffic and Transport</b>	<p>Traffic acknowledge that the car parking rates within the Hornsby DCP cannot be enforced due Clause 35(9) of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.</p> <p>The surrounding road network provides limited opportunity for additional pick up/drop off points. Because the development application is for Crown development, Council is unable to impose additional pick up/drop off locations without agreement from the applicant. As such, no conditions of consent relate to providing additional pick up/drop off locations</p> <p>As a result, Traffic and Transport have no further objection to the proposed development.</p>
<b>Development Engineer</b>	<p>This property is Epping Public School, and previously lay within the Hornsby Council LGA. A small portion of the northern area of the property is affected by overland flooding due to the natural topography around the Council stormwater pipeline running along the Northern property boundary. Sections 4, 5 and 13 of the lot are also zoned as overland flood parcels by Hornsby Council, as indicated by Council's GIS system. There is a natural ridge through the approximate centre of the site, and a valley along the northern site boundary. There is Council stormwater infrastructure within Pembroke street, and the existing stormwater system makes connection to this.</p> <p>Overland flooding was investigated in the 'Overland flow path and flooding investigation' memorandum submitted for DA/802/2017. This brief desktop study, informed by site inspection, topographical data and the Epping Town Centre Study 2011 completed by JPA Planning, concluded that the Northern sections 4, 5 and 13 of the lots would be affected by flooding from the Council pipeline, and Eastern areas may receive some small surface flows from the rest of the site. However, these flows will not impact the South-Western area where the building is proposed therefore this development is not considered to be flood controlled.</p> <p>A construction phase soil and water management strategy is required, detailing how the significant amount of cut and fill proposed</p>

	<p>will be transported to and from site and managed on site without adversely impacting students, neighbours or the environment (waterways receiving stormwater runoff). This must also outline how stormwater will be managed on-site during construction, and how construction materials and equipment will be stored/located so as not to impede stormwater conveyance or cause sediment migration. Considering overland flooding.</p> <p>Extensive cut and fill is proposed, to a depth of +/- 1.5m, although over-excavation may be required for foundation construction to a depth of 3m. The amount of fill has been reduced from that originally proposed, which extended up to 3m in depth, and the current proposal does propose a more even balance of cut and fill. The majority of these earthworks are proposed beneath the building footprint in order to provide a flat construction pad. Upon discussion with the Council planner, it was concluded that this is acceptable considering the steep site topography and scale of development. The geotechnical report confirms that these earthworks and associated retaining structures are feasible, provided that the appropriate engineering measures are put in place.</p> <p>Varied subsoil conditions were identified in the Geotechnical report, which require specialised footing, foundation and slab design for stability. A condition has been imposed requiring that all recommendations of the geotechnical report be followed.</p> <p>A WSUD strategy has been provided, consisting of a Rainwater tank, a vegetated swale and a water quality chamber with stormwater360 proprietary treatment cartridges. This constitutes an acceptably complex treatment train, that incorporates landscape integrated measures as well as stormwater retention and proprietary devices. MUSIC modelling has been conducted to demonstrate that the WSUD strategy achieves the required pollution reduction targets. This strategy is therefore acceptable. A Flow separating device is required upstream of the Water Quality treatment chamber, so that only 3-4EY flows (1 in 3 month) are directed to treatment and all higher flows discharge directly to the OSD tank.</p> <p>The proposed development is supported subject to conditions.</p>
<b>Landscape and Tree Officer</b>	<p>No significant trees require removal from the site to accommodate the proposed works. The proposed stormwater plan will require minor modification to accommodate required tree protection areas. The proposed landscape plan can be supported subject to conditions.</p>

## PUBLIC CONSULTATION

The application was notified in accordance with Council's notification procedures contained within Hornsby DCP 2013. In response 5 submissions were received. The issues raised within those submissions are addressed below. Issues have been grouped to avoid repetition.

Issue	Response
Insufficient car parking	<p>Clause 35(9) of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, states that any provision of a development control plan that specifies a requirement, standard or control is of no effect to the proposed development.</p> <p>As a result, Council cannot enforce the required car parking provisions under the Hornsby DCP 2013.</p> <p>Concerns regarding the amount of proposed car parking were raised with the applicant. As a result, the on-site car parking has been increased to a total of 8 formal on-site spaces for staff.</p> <p>This has been achieved by providing 6 additional parking spaces along the service driveway including four spaces in front of the Waste bins storage area.</p> <p>It is noted that waste collection will be scheduled to occur outside of hours when staff are in attendance at the school.</p>
Tree Removal	<p>Council's landscape and tree officer has reviewed the proposal, stating that no significant tree removal is proposed to accommodate the new building and therefore the proposed landscaping plan is supported subject to conditions.</p>
Adequate playground space	<p>The subject site is highly constrained with limited opportunity to place the building in an alternative location without reducing the existing active recreational space.</p> <p>Furthermore, there are no enforceable provisions under the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, which require additional recreational space.</p>



## **DEVELOPMENT CONTRIBUTIONS**

Advice was sought from Council's Strategic Land Use Planning section with regards to applicable development contributions for Crown development.

- The relevant plan is the Former Hornsby S94A Plan
- Under Circular D6, contributions for educational services under a Crown DA are generally limited to drainage works, and in some cases roads / traffic management.
- The cost of works being \$14,383,600, a 1% levy of \$143,836 would ordinarily apply to the development
- Only drainage applies in this case.
- The apportionment to drainage works under the plan is 1.72% of the levy. Therefore, a contribution of \$2,475.09 would apply.
- Strategic Planning recommend the contribution be levied.
- The applicant must agree to the conditions of consent for Crown Development. In this instance the applicant does not wish to pay the applicable contribution.

## **BONDS**

In accordance with the Council's 2017/2018 Schedule of Fees and Charges, the developer will be obliged to pay Security Bonds to ensure the protection of civil infrastructure located in the public domain adjacent to the site.

## **EP&A REGULATION 2000**

Applicable Regulation considerations including demolition, fire safety, fire upgrades, compliance with the Building Code of Australia, compliance with the Home Building Act, PCA appointment, notice of commencement of works, sign on work sites, critical stage inspections and records of inspection have been addressed by appropriate consent conditions, refer to Appendix 4.

## **SUMMARY & CONCLUSION**

### **Social & Economic Impact**

It is considered that the proposed development will complement the locality. The proposed development is not expected to have an adverse social or economic impact.

### **ESD & The Cumulative Impact**

The development satisfactorily responds to ESD principals. The proposal is not expected to have any cumulative impacts. The proposal is not considered to inhibit the ability of future generations to use or further develop the subject site.

### **Suitability of the Site**

The potential constraints of the site have been assessed and it is considered that the site is suitable for the proposed development.

## **Submissions & Public Interest**

5 Submissions were received in response to the advertisement/notification of the application. The issues raised within the submissions are addressed elsewhere in this report. The proposed development is not contrary to the public interest.

## **Conclusion**

After consideration of the development against Section 4.15 of the Environmental Planning and Assessment Act 1979, and the relevant statutory and policy provisions, the proposal is suitable for the site and is in the public interest. Therefore, it is recommended that the application be approved subject to the imposition of appropriate conditions.

## **RECOMMENDATION A – APPROVAL SUBJECT TO CONDITIONS**

Pursuant to Section 4.16 of the Environmental Planning and Assessment Act, 1979 that the Sydney Central City Planning Panel as the consent authority is of the opinion that the following variations under Clause 4.6 of Hornsby Local Environmental Plan 2013 are supportable:

(i) Maximum height under Clause 4.3 of Hornsby Local Environmental Plan 2013

That the Sydney Central City Planning Panel is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case as the proposal satisfies the objectives of the development standard and will not compromise the amenity of the locality.

AND

That the Sydney Central City Planning Panel (SCCPP), as the consent authority, being satisfied that the variation under Clause 4.6 of Hornsby Local Environmental Plan 2013 is supportable, grants consent to Development Application DA/754/2017 for the demolition of existing demountable structures, tree removal and construction of a 3 storey educational establishment pursuant to SEPP (Educational Establishments and Childcare Facilities) 2017 at 27-33 Pembroke Street, EPPING NSW 2121 as shown on approved plans, for a period of five (5) years from the date on the Notice of Determination for physical commencement to occur subject to the conditions of consent.