SYDNEY NORTH PLANNING PANEL

Panel Reference	PPSSNH-122
DA Number	DA/509/2020
LGA	Hornsby Shire Council
Proposed Development	Demolition of two educational buildings and construction of an "innovation hub" educational building within an existing educational establishment
Street Address	423-521 Old Northern Road, Castle Hill
Applicant	Andrew Hobbs – Urbis
Owner	Trustees of the De La Salle Brothers Australia
Date of DA Lodgement	30 June 2020
Number of Submissions	**58**
Recommendation	Approval
Regional Development Criteria) (Schedule 7 of the SEPP (State and Regional Development) 2011)	Private Infrastructure and Community Facilities over $5 million
List of All Relevant s4.15(1)(a) Matters	• State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 • State Environmental Planning Policy No. 55 Remediation of Land • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy (Infrastructure) 2007 • Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River • Biodiversity Conservation Act 2016 • Hornsby Local Environment Plan 2013 • Hornsby Development Control Plan 2013 • Section 7.12 Development Contributions Plan
List all documents submitted with this report for the panel's consideration	• Architectural Plan Set prepared by BVN Issue 2-10 • Engineering Details prepared by SCP Engineers and Development Consultants • Landscape Concept Plan prepared by Urbis, dated December 2020 • Clause 4.6 Variation – Height of Buildings – V2W

	• Traffic Impact Assessment prepared by Traffix Traffic and Transport Planners, dated 24/06/2020 • Updated Traffic Comment and Plan prepared by Traffix Traffic and Transport Planners, dated 4/12/2020 • Innovation Hub Built Form and Design Clarification Pack, by BVN. • Education SEPP – Schedule 4 School Design Principles by BVN dated 24/09/2020 • Heritage Impact Assessment by Urbis dated 24/09/2020 • Section 7.12 Development Contributions Plan
Report prepared by	Ben Jones – Town Planner, Hornsby Shire Council
Report date	5 March 2021

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	**Yes**

Legislative clauses requiring consent authority satisfaction

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

Clause 4.6 Exceptions to development standards

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

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.22)? *Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*	**No**

Conditions

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

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

- The application involves the demolition of two education buildings and construction of an "innovation hub" educational building within an existing educational establishment known as Oakhill College.
- The proposed development complies with the requirements of the relevant environmental planning instruments, including the *State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017*, the *Hornsby Local Environmental Plan 2013* and the *Hornsby Development Control Plan 2013* with the exception of Clause 4.3 of the *HLEP*.
- The written request pursuant to Clause 4.6 of the *Hornsby Local Environmental Plan 2013* to vary the height of buildings development standard contained within Clause 4.3 adequately establishes that compliance with the development standard is unnecessary in the circumstances of the development, and that sufficient environmental planning grounds exist to justify the contravention of the development standard. The request to vary the development standard is supported.
- The proposed development does not create unreasonable environmental impacts to the adjoining residential development with regard to visual bulk, overshadowing, solar access, traffic, parking, amenity or privacy.
- 58 submissions have been received in respect of the application.
- It is recommended that the application be approved.

RECOMMENDATION

THAT Development Application No. DA/509/2020 for demolition of two education buildings and construction of an 'innovation hub' educational building within existing educational establishment at Oakhill College, Lot 1370 DP 1063007, No. 423-521 Old Northern Road, Castle Hill be approved subject to the conditions of consent detailed in Schedule 1 of this report.

BACKGROUND

The site has had an extensive history of development, from the inception of the school in 1936 to the present day. Developments of note include the subdivision of the peripheries for residential allotments in the late 1990's, the development of a sporting complex and sporting facilities in the early 2000's period. More recently, Development Consent was granted to DA/1435/2014, for the erection of a Performing Arts Centre. No evidence of commencement of the DA/1435/2014 development is evident on site.

With respect to the subject development application, the applicant first approached Council on 20 March 2020 with a pre-lodgement application PL/16/2020, for the development of an innovation hub building. Key issues raised by Council included, height of buildings, heritage, earthworks and amenity impacts on the surrounding residential environment during construction and operation.

On 30 June 2020, the applicant submitted DA/509/2020 for the demolition of two buildings and construction of an innovation hub within existing educational establishment to Council for assessment.

On 6 August Council requested further information regarding the provision of a demolition plan and information referenced in the SEE. The applicant supplied information to satisfy the request on 12 August 2020.

On 8 September 2020 Council requested additional information regarding the Clause 4.6 request, inconsistencies in the SEE, student numbers, tree protection, acoustics, traffic and parking and design details. On 29 September 2020, the applicant responded to the request with additional information.

Council requested further information from the applicant on 4 November 2020 in regard to Traffic and Parking and Acoustics. The applicant provided further information to satisfy this request on 12 December 2020.

SITE

The overall site area of the "De La Salle" estate is approximately 18.2 hectares. The site contains a number of school buildings, playing fields, sporting facilities, associated car parking areas and access roads. The site also features a cemetery positioned towards its eastern end and a chapel in the north western portion of the site. The remainder of the site along its eastern perimeter is predominantly cleared grazing land used for agricultural studies and is bordered by a watercourse and two remnant stands of Blue Gum High Forest. Scattered amenity trees are located throughout the site.

The property is listed as a heritage item (No. 259, Oakhill College, Original Building and Grounds) of local significance under the provisions of Schedule 5 (Environmental Heritage) of the *Hornsby Shire Local Environmental Plan 2013 (HLEP).*

Oakhill College operates a registered and accredited non-government school catering for approximately 1,667 students (in 2019), boys only for Years 7 to 10 and co-educational in Years 11 and 12.

The site is bushfire prone, with a north western portion of the site being within 100 metres of bushfire prone vegetation.

The site is flood prone, generally along the alignment of the natural drainage channel that dissects the south eastern portion of the site.

The site itself is dominated by a hill (RL 183.5), which occupies a central position towards the western half of the property. The bulk of the school buildings are arranged about the south eastern slopes of this hill, with the exception of the JBB building occupying a prominent position on the north-eastern side of the hill. The hill slopes away to the north, east and south.

The property is bounded to the west by Old Northern Road, where it occupies a total road frontage of approximately 768 metres. There are two access points off Old Northern Road to the De La Salle property, being a main entrance to the school ground to the south, with a secondary entrance approximately 500 north of the primary entrance.

Adjoining the southern boundary is the Anglican Retirement Village, an extensive residential retirement village development in a bushland setting. St Paul's Anglican Church adjoins the south west boundary adjacent to the proposed playing field.

Adjoining the eastern boundary is predominantly low-density housing development, with residential properties along Foley Place, Brosnan Place and Armidale Crescent.

The site is burdened by a number of easements across the expansive grounds. Of note to this development application is the burdening of the site by an easement to drain water of variable width adjacent to the northern, side boundary.

PROPOSAL

The proposed development involves the demolition of two educational buildings and construction of an "innovation hub" educational building.

The two existing school buildings to be demolished, being the "Wagan" building and the "Mutein" building are located immediately south of the proposed "innovation hub" building and comprise of staff rooms and 10 class rooms. The new building will be constructed prior to the demolition of the Wagan Building to allow for resources to be transferred between buildings.

The new "innovation hub" school building would comprise a part three storey and part four storey educational building with a maximum height of 17m above existing ground level. The building would be arranged in an "L" shape, with an east-west wing and a north south wing.

The east-west wing would comprise of a single level building containing 11 learning spaces for various technology orientated teachings including fabrication, graphics and metal work / machining. A number of store rooms and service rooms are also located on this ground floor level.

The north-south elevation would contain a foyer, general purpose learning space and open plan study room around the foyer on the ground floor. The majority of the north-south wing is elevated above the ground level to assist with ground level circulation and provide for the retention of the "ceremonial" driveway between the chapel and the graveyard to the east and west respectively.

The first floor would comprise 8 classrooms, associated with sciences, including laboratories and computer / media rooms. Staff rooms would also be located within the first floor including offices, tea rooms, meeting rooms and prep rooms.

The second floor would comprise 10 classrooms, including 4 laboratories, a chemical store and a prep room.

The building would be serviced via the delivery of goods via the western side of the east-west building wing via an existing access way off Armidale Crescent.

Landscaping treatment is to be provided to integrate the building into the existing landscaped school setting, which includes grassed areas, mass planted garden beds and informal outdoor learning spaces.

A paved play area to the south of the Adrian building is proposed to be converted into a car parking area, to offset spaces lost via the placement of the innovation hub on an existing carpark located adjacent to the northern boundary.

In total, 39 trees would be removed to facilitate the development.

ASSESSMENT

The development application has been assessed having regard to *the Greater Sydney Region Plan, 'A Metropolis of Three Cities', the 'North District Plan'* and the matters for consideration prescribed under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act). The following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Greater Sydney Region Plan – A Metropolis of Three Cities and North District Plan

A Metropolis of Three Cities has been prepared by the NSW State Government to guide land use planning decisions to the year 2056. The population of Greater Sydney is expected to grow by 3.2 million people by 2056. The Plan sets a strategy for accommodating Sydney's future population growth and demographic change, while improving liveability.

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 District planning process to define objectives and set goals for job creation, housing supply and choice in each District. The *North District Plan* is a 20 year plan to manage growth in the context of economic, social and environmental matters to achieve the 40 year vision for Greater Sydney.

Council has been grouped with Hunters Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Northern Beaches, Ryde, and Willoughby LGAs to form the North District. The *North District Plan* 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 *Metropolis of Three Cities* sets a District 20 year strategic housing target of 92,000 dwellings over the next 20 years.

The proposed development would be consistent with *'A Metropolis of Three Cities',* by providing additional services to support a growing population.

2. STATUTORY CONTROLS

Section 4.15(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 R2 Low Density Residential under the *HLEP.* The objectives of the zone are:

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

The proposed development is defined as an *'educational establishment'* under the *HLEP* and is permissible in the zone with Council's consent.

2.1.2 Height of Buildings

Clause 4.3 of the *HLEP* prescribes that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 8.5m. The proposal does not comply with this provision, with a maximum building height of 16.651m which exceeds the development standard by 8.151m.

2.1.3 Variation of Development Standards - Assessment of Clause 4.6 Written Request

Clause 4.6 of the *HLEP* provides flexibility in applying certain development standards to particular development, in circumstances where it can be demonstrated that adequate planning merit is present to permit the departure from the development standard. Specifically, Clause 4.6(3) provides the following considerations for consent authorities;

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant provided a written request pursuant to the requirements of Clause 4.6 to vary Clause 4.3 Height of Buildings of the *HLEP*. Clause 4.3 reads as follows;

4.3 Height of buildings

(1) The objectives of this clause are as follows:

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

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

Further, the dictionary contained within the *HLEP*, defines building height as follows;

***building height** (or **height of building**) means:*

a) *in relation to the height of a building in metres - the vertical distance from ground level (existing) to the highest point of the building, or*

b) *in relation to the RL of a building - the vertical distance from the Australian Height Datum to the highest point of the building,*

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

Nature of Non-compliance

The written request to vary the development standard identifies that the innovation hub building exhibits a non-compliant building height for the entire roof form of the north-south 3 and 4 storey building element. The southernmost end of the building has a maximum height non-compliance of 3.471m. The height non-compliance increases to the north as the underlying topography falls away, to a maximum of 8.151m at the northern façade.

The east-west building element is of compliant building height.

Written Request

The applicant has made a submission in support of a variation to the development standard in accordance with Clause 4.6 of the *HLEP*. Numerous New South Wales Land and Environment Court

(NSW LEC) planning principles and judgements have detailed the method in which variations to development standards should be approached. The first of note is *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* in which Preston CJ provides that:

> *[13] The permissive power in cl 4.6(2) to grant development consent for a development that contravenes the development standard is, however, subject to conditions. Clause 4.6(4) establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard.*
>
> *[15] The first opinion of satisfaction, in cl 4.6(4)(a)(i), is that the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by cl 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (cl 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b)). The written request needs to demonstrate both of these matters.*

Council must therefore be satisfied that the written request addresses both the unreasonable and unnecessary test and demonstrates sufficient environmental planning grounds to justify contravening the development standard. In the matter of *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61* where upon appeal to a judge of the Land Environment Court Preston CJ, his honour held:

> *[78] The consent authority's consideration of the applicant's written request, required under cl 4.6(3), is to evaluate whether the request has demonstrated the achievement of the outcomes that are the matters in cl 4.6(3)(a) and (b). Only if the request does demonstrate the achievement of these outcomes will the request have "adequately addressed the matters required to be demonstrated" by cl 4.6(3), being the requirement in cl 4.6(4)(a)(i) about which the consent authority must be satisfied. The request cannot "adequately" address the matters required to be demonstrated by cl 4.6(3) if it does not in fact demonstrate the matters."*

This was later reaffirmed by the court of appeal in *Rebel MH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130.*

The above decisions and judgments describe how a written request must be prepared by the applicant, and the method in which consent authorities are to assess such a request. With specific reference to this development application, the written request to vary the development standard contained within Clause 4.3 of the *HLEP* was prepared by Urbis to support the proposal. The written request provided both reasoning as to why compliance with the standard was both unreasonable and unnecessary and provided environmental planning grounds to justify contravening the development standard. These matters are discussed in the sections below, specific to each development standard.

Unreasonable or Unnecessary – Clause 4.6(3)(a)

There are five common methods by which an applicant can demonstrate that compliance with a development standard is unreasonable or unnecessary in the circumstances of the development. Initially proposed for objections under clause 6 of *SEPP 1* in the decision of *Wehbe v Pittwater Council [2007] NSWLEC 827* Pearson C summarised and applied these methods to written requests made under Clause 4.6 in *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009* [61-62]. These five methods are generally as follows:

- The objectives of the development standard are achieved notwithstanding non-compliance with the standard.
- The underlying objective or purpose is not relevant to the development.
- That the objective would be defeated or thwarted if compliance was required.
- That the development standard has been virtually abandoned or destroyed by the Council's own actions in departing from the standard.
- The zoning of the land is unreasonable or inappropriate.

It is not necessary to demonstrate that a development meets multiple methods as listed above, and the satisfaction of one can be adequate to demonstrate that the development standard is unreasonable or unnecessary.

The applicants written request seeks to demonstrate that; the development standard is achieved notwithstanding non-compliance with the standard, the underlying objective or purpose is not relevant to the development and that the zoning of the land is unreasonable or inappropriate, as outlined below.

The objectives of the development standard are achieved notwithstanding non-compliance with the standard

With respect to the objectives of the development standard being achieved notwithstanding non-compliance with the standard, the applicant provides that the proposal is consistent with the objective of this development standard for the following reasons;

- *The non-compliance is appropriate for the site, noting the existing built form present within Oakhill College. For example, the De La Salle Building located immediately west of the proposal protrudes well above the height of the proposal, with an average ridge height of RL193.77 which is approximately 3m taller than the proposal. Additionally, the Performing Arts and Function Centre approved in 2015 on the site includes a final building height of 13.5m.*
- *The footprint of the building includes a gradient change of approximately 8.9m. As a result, the design has incorporated a stepped design to deliver the required learning space, while aiming to keep the developments footprint low.*
- *The non-compliance will not result in unreasonable increase in infrastructure and service capabilities. A services utility report which has been prepared and submitted with the development application concludes that no services augmentation will be required to facilitate the proposal.*

On review of the above, its is considered that the proposed building height is largely comparable to the bulk and scale of several existing structures on site, including the De La Salle building which is located immediately to the west of the proposed innovation hub building. Further, it is noted that fall is present across the north-south building, however, this fall is depicted as 6.55m on the "Long Sections" plan, No. AR-D10_XX01 prepared by BVN, dated 26.06.20, not 8.9m as claimed within the written request prepared by Urbis.

It is further agreed that the proposed building would not unreasonably increase demand for infrastructure capacity within the locality. The proposed application does not propose any increase in student numbers, would not require any augmentation of existing electricity, sewerage or drainage

systems and adequately replaces car parking lost within the confines of the site elsewhere within the school grounds.

The primary site constraint that applies to this development is the presence of low density residential housing adjoining the northern boundary of the site. There is a significant difference in scale between the proposed innovation hub building and the dwelling houses that adjoin the northern boundary of the site. This scale difference is exacerbated by the fact that the dwellings to the north are downslope of the proposed building, by approximately 2-4 metres.

Consequently, when there is a proposal for a development of a disproportionate scale to the surrounding built form, there is the potential for amenity impacts to arise related to the differences in scale, such as overshadowing or privacy impacts.

With respect to this development, the proposed building is located to the south of the adjoining residential development, meaning that no sunlight access is lost due to the adjoining residential development. All shadows generated by the proposal fall within the existing school grounds between 9am and 3pm on the winter solstice.

Additionally, whilst the building contains north facing windows, these windows would be fitted with horizontal privacy shelves or fixed louvers that would prevent views down from the elevated position into neighbouring development.

Similarly, the applicant has designed the innovation hub building to be setback at a distance of 9 metres from the northern side boundary. It is noted that the height and setback of the proposed building are largely similar to the controls contained within Schedule 2 of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* which allows the construction of a 22 metre building 10 metres from the side boundary. It is considered that the proposed building 16.651m in height setback at 9 metres would be largely similar in terms of impact to a 22m building setback at 10 metres.

For the reasons outlined above, it is considered that the written request to vary the height of building standard adequately demonstrates that the objectives of the height of buildings development standard contained within Clause 4.3 of the HLEP are achieved, notwithstanding non-compliance with the standard.

The objective would be defeated or thwarted if compliance was required

The written request contests that the objective of Clause 4.3 would be defeated or thwarted if compliance was required. The reasoning provided is as follows;

The proposed development provides for a partial three and four storey building, intended to facilitate improved learning spaces for Oakhill College Students. The proposal is consistent with the built form of existing school buildings within the campus, namely resulting in a lower built form than adjoining structures such as the De La Salle building which protrudes an additional 3m above the proposed finish building height.

Due to the sloping topography of the site, the proposal includes a stepped design to maximise education floor space while not increasing the development footprint. If the proposed building was reduced in height, a greater footprint would be required to facilitate additional learning spaces which would result in a loss of further car parking and landscaped grounds of the campus. Additional façade interface with the residential dwellings to the north would be a sub optimal outcome, increasing the opportunity for visual privacy impacts. Compliance in the circumstances is therefore unreasonable.

Council's assessment of the above justification considers that the written request provides rudimentary reasons to demonstrate that the objective of Clause 4.3 would be defeated or thwarted should compliance be required. It is not considered that the objective of Clause 4.3 is to facilitate the maximisation of floorspace and the retention of landscaping and supporting infrastructure, or that the only other viable option for the delivery of additional floor space on site would come at the expense of the adjoining residential development.

Whilst Council considers that the condensation of floor space to retain landscaping features and existing built infrastructure including play areas and car parks to be valid environmental planning grounds, it is not considered to be sufficient within the context of demonstrating that the objective of Clause 4.3 would be defeated or thwarted, should compliance be required.

The zoning of the land is unreasonable or inappropriate.

Finally, the written request provides comment in regard to demonstrating that the zoning of the land is unreasonable or inappropriate;

The objectives of the R2 Low Density Residential zone primarily focus on providing housing in a low-density environment. These are not relevant to the proposal. The relevant objectives are:

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

The proposed development provides for community facilities to meet the day to day needs of residents. Educational establishments are envisaged in the R2 low density residential zone by virtue of being permissible with consent. The extent of the proposal which results in a non-compliance will provide for a non-residential land use in an existing school grounds context. The design has ensured that it will not result in an unreasonable increase of environmental impacts to the existing residential environment to the north.

The proposal satisfies the above objectives.

Educational establishments are permissible with development consent within the R2 zone and the R2 zone is a prescribed zone specifically listed in Section 33 of the *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*. It is therefore considered that the zoning of the site is reasonable.

Summary

Whilst Council does not concur with the applicant in regard to the objective of Clause 4.3 being defeated or thwarted if compliance was required, or the zoning of the site being unreasonable, it is considered that the applicant adequately demonstrates that the development achieves the objectives of the height of buildings development standard notwithstanding non-compliance with the standard. It is therefore considered that the development adequately demonstrates that strict compliance with the height of building development standard would be unreasonable or unnecessary in the specific circumstances of the development. Council is therefore satisfied that Clause 4.6(3)(a) of the *HLEP* is adequately addressed.

Environmental Planning Grounds – Clause 4.6(3)(b)

In addition to demonstrating that compliance is unreasonable or unnecessary, Clause 4.6(3)(b) requires that there are sufficient environmental planning grounds to justify contravening the development standard. In demonstrating that sufficient environmental planning grounds exist it must be demonstrated that the planning grounds are particular to the circumstances of the development on the subject site (summarised from *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009* [60].

In demonstrating that sufficient environmental planning grounds exist to justify the non-compliance with the development standard, the applicant outlined that amenity impacts arising from the proposal in the form of privacy, overshadowing and acoustics were negligible or otherwise adequately controlled. With respect to acoustics the applicant notes that noises sources from machinery housed within the building, such as wood working equipment and extractors would be located on the ground floor of the building.

Further, the applicant outlines that further built environment benefits arise from the consolidation of building footprint into a height that exceeds the 8.5 metre maximum. These benefits include retention of landscape features, play spaces, car parking, heritage benefits and efficiencies in design.

Council's review of the environmental planning grounds presented by the applicant raises no points of contention, and it is considered that the consolidation of the building footprint to be a reasonable built environment outcome, both within the subject site, via the benefits described above, and to the adjoining residential development, via the adequate preservation of a reasonable level of residential amenity. Council is therefore satisfied that Clause 4.6(3)(b) of the *HLEP* is adequately addressed.

Public Interest and Clause 4.6(4)

Clause 4.6(4) states that development consent must not be granted for development that contravenes a development standard unless:

(a) The consent authority is satisfied that:

(i) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) The concurrence of the Planning Secretary has been obtained

With regard to part (i), the written requests are considered to adequately address the matters required to be demonstrated as outlined above.

With regard to part (ii), the proposed development is considered to be in the public interest because it is consistent with the objectives of the particular standard and the objectives for height of building contained within the *HLEP*.

With regard to (b) the concurrence of the Planning Secretary has been obtained.

Therefore, the exceedance of the height of buildings development standard is supported in this instance.

2.1.4 Heritage Conservation

The site is listed as heritage item No.259 (Oakhill College, Original Building and Grounds) under the provisions of Schedule 5 of the *HLEP*. The heritage listing for the site relates to the original three storey (De La Salle) building, located in the north western hill top area of the site and the grounds.

The relevant objectives of Clause 5.10 as they relate to the proposal are to conserve the environmental heritage of Hornsby, and to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views. Council has undertaken an assessment of the specific portions of the development, as they relate to heritage conservation which is provided in the table below:

Key Development Aspect	*Heritage Comment*
Partial excavation of carpark	No concerns. The carpark site is historically significant, being the location of a former boarding house constructed in the 1930s. However, the building was demolished in the 1970s. Foundations of the former building may be located within the sub-surface, leading to a moderate potential for archaeological remains, as identified within Council's inventory sheet. A condition of consent to undertake an archaeological assessment and submit it to Council prior to the issue of any relevant Construction Certificate, is recommended. The assessment should identify if the remains of the foundations of the former boarding house may survive, identify if they have heritage significance and if their disturbance may require any approvals under the *Heritage Act NSW 1977.*
Demolish two buildings	No concerns. The Wagan and Mutien buildings, constructed in 1961 and 1959 respectively, are modest institutional buildings that reflect the period of development. While they represent the historic development diary of the site, demolition would have no adverse impact on the identified heritage significant features within the site.
Removal of 4 x Canary Palms	No concerns. The Canary Palms were relocated to the current location in 1961. They no longer relate to of the formal setting of the De La Salle Building as their original location has been disturbed. The trees are at a mature age with a limited life expectancy. Accordingly, relocation of the trees is not required. The proposed new planting schedule and landscape plan provide a suitable soft landscaping replacement to complement and distinguish the setting of the new contemporary phase of development within the grounds.

Removal of 8 x trees	No concerns. The semi-mature trees are of little heritage significance, planted in c1980s following formation of the car park area. Removal would have no impact on the significant landscape features of the site.
Removal of stair elements	No concerns. Removal of the 1920s stairs will have a heritage impact. However, their original formal garden context has been lost throughout the Oakhill College periods of development which has reduced their heritage significance. Restoration of a formal garden in this location is not envisaged within the Master Plan Vision, thus retention is not possible. The suggested mitigation measure provided in the HIS, to retain the similar set of garden stairs elsewhere on the site and interpretation of the removed stairs within the new landscaping works should be included as a condition of consent.
Retention of Hoop Pine	No concerns. Retention of the hoop pine is a positive heritage outcome. Planted in the 1980s, it is a contemporary addition to the site, and reinforces the significant Federation style planting scheme from the Cox period of occupation of the site.
Construct three storey Educational Building	No concerns. The new building complies with the General Design Requirements for Heritage Items under Part 9.2 of the HDCP. The new building is: • Physically separated to allow adequate curtilage of the De La Salle Building's continued interpretation • Setback from the De La Salle Building's front building line to ensure prominence of the Heritage item in the Northern aspect views. • Set 3m below the main ridge height of the De La Salle Building to ensure prominence of the roofscape in views across the campus and retention of the heritage item as a landmark-built feature. • Respects the scale, rectangular form and massing of the De La Salle Building. • Designed in a distinctively contemporary design to not attempt to mimic the other educational buildings and reflect the educational needs of the 21st century period of development • Designed with a subdued colour palate and materials to complement the setting of the De La Salle Building but not visually dominate. • Sited to retain primary views to the De La Salle building, as indicated in Figure 26 of the HIS.

As outlined in the table above, no concerns are raised with respect to heritage conservation of the significant elements on the subject site, subject to the impositions of the condition described above. Suitable conditions of development consent have been recommended in Schedule 1 of this report for the imposition of these conditions.

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.

Council's assessment of the proposed works and excavation concludes that excavation to be undertaken on the subject site is largely limited to the building footprint and would comprise of approximately 500m^3 of topsoil and pavements stripped and removed from the site and a further 3,000m^3 of excavated material of deeper strata, as detailed within the supplied Construction Management Plan, Version 02, dated 23 September 2020. As the majority of these earthworks are confined the building footprint, are relatively minor in scale when compared to the expansive development site, and are adequately setback from neighbouring land uses, it is not considered that the proposed earthworks would have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

2.1.6 Flood Planning

The objectives of Clause 6.3 are as follows:

(a) to minimise the flood risk to life and property associated with the use of land,

(b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,

(c) to avoid significant adverse impacts on flood behaviour and the environment.

The development site is flood prone, with a 1/100 year average recurrence interval overland flow path impacting the south eastern portion of the site. The proposed innovation hub building would be located at a distance of over 300m from the flood affected portion and would be elevated approximately 20 metres above the overland flow path and therefore, would not be impacted by flood waters.

2.2 State Environmental Planning Policy No. 55 Remediation of Land

The application has been assessed against the requirements of *State Environmental Planning Policy No. 55*. This Policy provides State-wide planning controls requiring 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.

A search of Council's records indicates that the site has a long history of education use, beginning in 1936. Before the educational use of the site, the site was used for rural purposes and contained a homestead dating to before 1910.

A Stage 1 Environmental Site Assessment (ESA) report was prepared by JK Environments, dated 20 February 2020. The assessment was limited to the proposed development area only and a geotechnical investigation was undertaken which was outlined within a separate Geotechnical Investigation Report, dated 24 February 2020.

The ESA report identified that previous asbestos contamination within fill material was removed from the site and the site was certified in 2015. No other contamination events were directly identified, but potential sources of contamination relating to previous land uses were noted, including the site's agricultural history, further potential for asbestos or other dangerous building materials being used on site. The ESA sampled 21 bore holes from the site and did not identify any contamination that required specialised risk mitigation. The ESA concluded that the site is suitable for the development, subject to recommendations, which are included as recommended conditions of consent within Schedule 1 of this report. Subject to these conditions, it is considered that the site is suitable for the proposed use and any contaminates that may be encountered on site can be adequately mitigated during the construction period.

2.3 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 (Vegetation SEPP*). 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.

Part 3 of the *Vegetation SEPP* states that a development control plan may make a declaration in any manner relating to species, size, location and presence of vegetation. Accordingly, Part 1B.6.1 of the Hornsby Development Control Plan 2013 (HDCP) prescribes works that can be undertaken with or without consent to trees.

Part 3.1.1 of this report provides an assessment in accordance with Part 1B.6.1 of the HDCP.

2.4 State Environmental Planning Policy (State and Regional Development) 2011

Section 4.5(b) of the *Environmental Planning and Assessment Act 1979* provides that the Sydney district planning panel for the area in which the development is to be carried out is the consent authority for development of a kind that is declared by an EPI as regionally significant development. Schedule 7(5) of the *State and Regional Development SEPP* provides that development for the purposes of an educational establishment that has a CIV of more than $5 million is regionally significant development. The provided Quantity Surveyors Report provides a CIV of $19,610,291.51 which satisfies this criteria.

The CIV of the development also fails to reach the threshold of state significant development, as outlined in Schedule 1(15)(2), of $20 million for development involving alterations and additions to an existing educational establishment.

As the proposed development has a CIV of more than $5 million but less than $20 million it is deemed to be regionally significant development and the Sydney North Planning Panel is the consent authority for the application.

2.5 Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River

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

The proposal includes details of soil and water management during construction works. A condition is recommended with respect to installation of sediment and erosion control measures prior to, and during, construction.

The proposed development would have minimal potential to impact on the Hawkesbury-Nepean Rivers Catchment subject to the implementation of recommended conditions contained with Schedule 1 of this report.

2.6 State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017

State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017 (*Education SEPP*) provides planning controls for school development within Part 4 of the SEPP, with further controls within Schedule 4 which relate to the design quality of the development.

As the development relates to an existing school within a prescribed zone, the requirements of Clause 35 apply. Complying development is not permissible on the site, as the site is heritage listed in the *HLEP*.

Clause 35 of the *Education SEPP* provides that prior to the consent authority determining an application, the consent authority must take into consideration;

(a) the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 4, and

(b) whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.

With respect to point (a), an assessment against the design quality principles set out in Schedule 4 is provided in the table below.

With respect to point (b), it is considered by Council that the design of the development would not exclude the use of school facilities by the community. The proposed innovation hub is described within the SEE as a modernisation and expansion of existing facilities on site, to capture the changing nature of science and technology teachings. The development does not contain elements that would exclude any portion of the community and facilities could be shared when required.

2.6.1 Design Quality Principles

Schedule 4 of the *Education SEPP* contains seven design principles which the consent authority must take into consideration prior to determining an application. The applicant provided documentation regarding how the development was designed in accordance with these principles, both within the supplied SEE and within a standalone "Education SEPP – Schedule 4 School Design Principles" document, (SDP) prepared by the architect BVN, dated 24.09.20. An assessment of the development against the seven principles is provided within the below table:

Principle 1 – context, built form and landscape	
Schools should be designed to respond to and enhance the positive qualities of their setting, landscape and heritage, including Aboriginal cultural heritage. The design and spatial organisation of buildings and the spaces between them should be informed by site conditions such as topography, orientation and climate.	The supplied SPD document details that the building has been designed with focus on the design and spatial organisation of buildings within the site and those neighbouring the site to the north. Further detail of the relationship between built structures is contained within the "Built Form and Design Clarification Pack" provided to support the development, which

	details the overall masterplan for the site. It is considered that sufficient detail is provided within these documents to demonstrate that significant design decisions have been undertaken to enhance the positive qualities of the building's setting whilst persevering the contemporary history of the site as detailed in Part 2.1.4 of this report. It is noted that Council possesses no records of Aboriginal cultural heritage that specifically relate to the site.
Landscape should be integrated into the design of school developments to enhance on-site amenity, contribute to the streetscape and mitigate negative impacts on neighbouring sites.	The landscape design, as detailed within the Landscape design pack, prepared by Urbis dated December 2020, details extensive landscaping elements to integrate the building into existing school setting and provide a landscaped buffer between the school site and adjoining residential development to the north.
School buildings and their grounds on land that is identified in or under a local environmental plan as a scenic protection area should be designed to recognise and protect the special visual qualities and natural environment of the area and located and designed to minimise the development's visual impact on those qualities and that natural environment.	N/A
Principle 2 - sustainable, efficient and durable	
Good design combines positive environmental, social and economic outcomes. Schools and school buildings should be designed to minimise the consumption of energy, water and natural resources and reduce waste and encourage recycling.	The supplied SPD document outlines that the innovation hub building would contain a timber framing and supporting elements, reducing greenhouse gas emissions and imbuing the building with thermal benefits arising from the extensive use of timber. Additionally, significant sun shading devices are proposed to be installed on the western elevation, to reduce heating impacts from afternoon sun and therefore reduce energy consumption from the building.
Schools should be designed to be durable, resilient and adaptable, enabling them to evolve over time to meet future requirements.	The innovation building contains numerous, general purpose learning areas, and spaces to cater for changing and varied methods of learning.
Principle 3 - accessible and inclusive	
School buildings and their grounds should provide good wayfinding and be welcoming,	The SPD document outlines that wayfinding is facilitated via the overall masterplan for the site,

accessible and inclusive to people with differing needs and capabilities. *Note: Wayfinding refers to information systems that guide people through a physical environment and enhance their understanding and experience of the space.*	which aims to improve pedestrian legibility. Further, interpretation of the internal functions of the building will be facilitated via the introduction of a glazed southern façade, that reveals the internal learning spaces. The Access Review Report, prepared by Morris Goding Access Consulting, version 4, dated 18 June 2020 outlines that the development is compliant with the relevant standards in relation to equitable access and provides enhanced access for the site above that which is provided by the current facilities.
Schools should actively seek opportunities for their facilities to be shared with the community and cater for activities outside of school hours.	The design of the building is inclusive and could be adequately utilised by members of the wider community, should the school identify opportunities for this to occur.
Principle 4 - health and safety	
Good school development optimises health, safety and security within its boundaries and the surrounding public domain, and balances this with the need to create a welcoming and accessible environment.	The proposed development would not erode current levels of safety or security at the school. The SDP document outlines that health positives can be identified via the use of extensive glazing facilitating internal sunlight access and via the use of natural materials.
Principle 5 - amenity	
Schools should provide pleasant and engaging spaces that are accessible for a wide range of educational, informal and community activities, while also considering the amenity of adjacent development and the local neighbourhood.	Consideration has been given to both internal amenity and the retention of adjoining residential amenity as a part of the building design. Amenity impacts are discussed in detail in Section 2.1.3 and Section 2.8.5 within this report.
Schools located near busy roads or near rail corridors should incorporate appropriate noise mitigation measures to ensure a high level of amenity for occupants.	Old Northern Road borders the western boundary of the site which is a main arterial road. The innovation centre building would be located more than 175 metres from this road and consequently significant noise impacts are not expected.
Schools should include appropriate, efficient, stage and age appropriate indoor and outdoor learning and play spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage and service areas.	The school currently has extensive indoor and outdoor learning and play spaces which would largely be unaffected by the proposed development as the majority of the building would be located on a car park area.

Principle 6 - whole of life, flexible and adaptive	
School design should consider future needs and take a whole-of-life-cycle approach underpinned by site wide strategic and spatial planning. Good design for schools should deliver high environmental performance, ease of adaptation and maximise multi-use facilities.	The SDP document outlines that the innovation hub building will be built in as a series of modular grids, with all internal partitions being non-load bearing to facilitate future changes to the spaces. The building also contains several general purpose learning areas which could be utilised in a range of learning environments.
Principle 7 - aesthetics	
School buildings and their landscape setting should be aesthetically pleasing by achieving a built form that has good proportions and a balanced composition of elements. Schools should respond to positive elements from the site and surrounding neighbourhood and have a positive impact on the quality and character of a neighbourhood.	The SPD document outlines that the innovation hub building looks to reflect the existing school fabric via the use of colour palettes that are consistent with the existing school buildings, particularly the heritage listed De La Salle Building. Council considers that the design of the building is sufficient and of an acceptable aesthetic appearance.
The built form should respond to the existing or desired future context, particularly, positive elements from the site and surrounding neighbourhood, and have a positive impact on the quality and sense of identity of the neighbourhood.	The proposed innovation hub building responds to the existing context of the school site, as outlined above and is considered to be suitable for the context of the site.

As outlined in the table above, the proposal is considered to be generally consistent with the design quality principles outlined in Schedule 4 of the *Education SEPP*. It is therefore considered that the proposal is generally consistent with the relevant requirements of the *Education SEPP* as outlined in Part 4 and Schedule 4.

2.7 Clause 3.42 Environmental Planning and Assessment Act 1979 - Purpose and Status of Development Control Plans

Clause 3.42 of the *Environmental Planning and Assessment Act 1979* states that *a* DCP provision will have no effect if it prevents or unreasonably restricts development that is otherwise permitted and complies with the development standards in relevant Local Environmental Plans and State Environmental Planning Policies.

The principal purpose of a development control plan is to provide guidance on the aims of any environmental planning instrument that applies to the development; facilitate development that is permissible under any such instrument; and achieve the objectives of land zones. The provisions contained in a DCP are not statutory requirements and are for guidance purposes only. Consent authorities have flexibility to consider innovative solutions when assessing development proposals, to assist achieve good planning outcomes.

2.8 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the *Hornsby Development Control Plan 2013 (HDCP)* as outlined in Part 1, Part 7 and Part 9 of the HDCP. Detailed assessment of the relevant planning controls is provided below.

2.8.1 Site Requirements

Part 7.1.1 Site requirements of the HDCP outlines the site-specific requirements for an educational establishment. The proposed development is consistent with the requirements outlined in Part 7.1.1 and would not permit the generation of any land use conflicts, or unacceptable amenity outcomes for the subject site, or any adjoining development.

2.8.2 Scale

The relevant desired outcome of Part 7.1.2 Scale of the HDCP is for development with a height, bulk and intensity that is compatible with the character of the area.

The prescriptive measures outline that the maximum building height should be in accordance with the HLEP height of buildings map, and the maximum site coverage should be no more than 30%.

With respect to the height of the building, this aspect is discussed in detail in Section 2.1.3 of this report.

With respect to site coverage, the site has a site coverage of less than 30%, with over 70% of the site covered with open space.

The proposed scale is therefore considered to be consistent with the desired outcome of Part 7.1.2 of the HDCP.

2.8.3 Setbacks

The desired outcome of Part 7.1.3 setbacks of the HDCP is for;

- *Setbacks that are compatible with adjacent development and compliment the streetscape;* and
- *Setbacks that allow for the retention of significant landscape features and respect site constraints*

The relevant prescriptive measure to support the desired outcomes outlines is that within in the R2 – Low Density zone, setback controls for a dwelling house (as outlined in Part 3.1 of the HDCP) should be applied. Relevant setback distances in this instance would be equal to 900mm for single story building elements, and 1.5m for building elements of two or more stories.

Applying these setbacks to a building of four stories in height is considered to be inappropriate, as it would exacerbate scale differences between the subject site and the adjoining low-density residential environment by permitting the innovation hub building to be located in close proximity to the adjoining two story dwelling house development. Such an outcome is considered undesirable and incompatible.

In preference to the setback distances stipulated in the HDCP, the setbacks prescribed in Schedule 2 of *Education SEPP* for complying development are considered to be more appropriate controls. Applying the setbacks stipulated by Schedule 2 of the *Education SEPP*, the following setback distances are applied to the development:

- 5m for building elements of 12m or less in height; and

- 10m for building elements of between 15 and 22 metres in height.

Assessing the development against these more appropriate setback controls, it is identified that the single storey east -west building element is located at a compliant 5 metre setback distance, with the north west building element of 16.651 metres in height setback at 9 metres.

In support of the 9 metre setback from the northern side boundary, the following points are noted:

- The *Education SEPP* provides a 10m setback distance for buildings of between 15 and 22 metres, but also provides a setback distance of 8 metres for buildings of between 12 and 15 metres in height. As the building is 16 metres in height, the bulk and scale would be largely similar to that of a building of 15 metres in height however a further metre setback is provided for the addition of a metre of building height.
- Increasing the setback to 10 metres or reducing the height of the building to 15 metres in height would have a negligible change to the impact of the building and would afford negligible improvements to adjoining residential amenity.
- The building establishes and maintains a reasonable level of amenity to adjoining properties at the proposed setback distance as outlined in Part 2.3.1 and Part 2.8.5 of this report.
- The proposed setback is considered to provide adequate separation between the bulk and scale of the subject site, and that of the surrounding residential environment.
- Increasing the setback to 10 metres would likely require additional landform modification and would alter the alignment of the “ceremonial pathway” that connects the chapel to the on-site cemetery. As negligible improvement to built form and amenity would be realised by extending the setback distance, the additional earthworks and impacts to the ceremonial pathway are considered undesirable.

Consequently, for the reasons outlined above, the proposed setbacks are considered to be appropriate, and generally consistent with the desired outcomes of Part 7.1.3 Setbacks of the HDCP.

2.8.4 Landscaping

The desired outcome of Part 7.1.4 Landscaping is for:

- *Landscaping that is compatible with the character of the locality;* and
- *Landscaping that retains existing landscape features such as significant trees, flora and fauna habitats and urban streams.*

The applicant provided a landscape design study which accompanied the development application. This landscape study provided a detailed site analysis of the existing site conditions, including a detailed assessment of the “master plan” vision for the entire site.

The provided landscape concept plan is considered to adequately integrate the built form of the innovation hub building with the existing landscaping of the school site. The landscaping contains new tree plantings, lawns, causal outdoor learning environments and replacement trees.

With respect to the northern interface with the adjoining residences, the landscape plan proposes a 1.4 metre wide, 5 metre high screen hedge, with some periodically planted trees. This hedge is considered to be acceptable, as it is noted that currently numerous dwellings adjoining the northern boundary have established screening planting adjacent to the northern boundary.

Whilst established trees will need to be removed to facilitate the development, efforts have been made to retain existing trees, including a prominent hoop pine to the west of the innovation hub building. Further discussion regarding tree preservation is included in Part 3.1.1 of this report.

It is considered that the proposed landscaping treatment generally complies with the desired outcomes of Part 7.1.4 Landscaping of the HDCP and is considered acceptable.

2.8.5 Privacy, Security and Sunlight Access

The desired outcomes of Part 7.1.6 of the HDCP is for:

- *Development designed to provide reasonable privacy and sunlight to adjacent properties;* and
- *Development designed to provide high levels of security.*

The proposed building would be located within established school grounds, which are enclosed by security fencing on all sides. No security concerns would arise as a result of the construction of the proposed building.

With respect to sunlight access, adjoining properties would enjoy more than three hours of continuous sunlight access at the winter solstice, primarily due to the fact that the building is located to the south of adjoining residences.

With respect to privacy, the building contains north facing windows which would potentially have views towards adjoining residence. These windows would be fitted with horizontal privacy shelves or fixed louvers that would prevent views downwards from the elevated position into neighbouring development. Views would be directed towards the horizon in accordance with the prescriptive measures contained within Part 7.1.6 of the HDCP.

The proposed development generally meets the desired outcomes of Part 7.1.6 of the HDCP and is considered acceptable.

2.8.6 Vehicular Access and Parking

The desired outcome of Part 7.1.7 of the HDCP, is for development with simple, safe and direct vehicular and pedestrian access, and for carparking that meets the requirements of future occupants and their visitors. Additionally, further controls relating to transport and parking are contained within Part 1C.2.1 Transport and Parking of the HDCP. Part 1C.2.1 of the HDCP prescribes the following parking rates for a school;

- 1 space per full time student + 1 space per 2 students of driving age

Vehicular Access

Vehicular access to the site is achieved via four access points, two being off Old Northern Road, one off Foley Place and a final access via Armidale Crescent.

The proposed development does not seek to alter any of the existing access points but does seek to gain further access via the existing Armidale Crescent access point for deliveries.

The Armidale Crescent access point is restricted in use by a historical development consent relating to the site. This consent, being Development Application No. DA/2848/1999, contained a condition of development consent No. 100(c) that restricted the use of the Armidale Crescent access for the use of “emergency vehicles, funerals and special events”.

More recently, in 2018, Council received concerns from residents of Armidale Crescent and Brosnan Place, that excessive vehicles and pedestrians were utilising the street for parking and access to Oakhill College, causing congestion and safety concerns. Adjoining residents contested that the students and teachers were utilising the Armidale Crescent access to the school.

Council initiated a compliance investigation and wrote to the school reminding them of their obligations under DA/2848/1999 and requesting that access be restricted to the approved use of emergency vehicles, funeral vehicles and special events.

With respect to the proposed additional use of the Armidale Crescent access under this development application, Council considers that this would only be acceptable if the additional use does not have a detrimental impact on the amenity of Armidale Crescent and the surrounding low density residential environment.

In this regard, it is noted that the applicant describes the additional use of the Armidale Access as follows:

"Consent is sought to utilise the access point from Armidale Crescent a maximum of eight times per year for a medium rigid vehicle (MRV) for the purpose of deliveries. The deliveries will provide materials for the workshops located within the Innovation Hub and will not service any other part of the College. The number of deliveries proposed is a maximum, and where deliveries can be performed by smaller vehicles for alternate access points, these will take priority. Deliveries will occur outside of peak hours (i.e. approx. 10am-2pm Monday - Friday), so as to reduce any potential impacts to residential road users in the surrounding vicinity and ensure no unreasonable acoustic impacts result on adjoining sensitive receivers."

Council considers that this additional infrequent use of the Armidale Crescent access is acceptable, as deliveries would occur less than once a month, and between the hours of 10am and 2pm, which would have minimal impacts on the surrounding residential amenity. An appropriate condition of development consent is recommended in Schedule 1 of this report, limiting the maximum number of vehicles utilising the access point to no more than 8 within any 12 month period, and that deliveries are to occur between the hours of 10am to 2pm.

Subject to the imposition of this condition, it is considered that the proposed access arrangements via Armidale Crescent are acceptable.

Parking

Parking on the subject site is facilitated via seven at grade parking areas, labelled A-G in the provided Traffic Impact Assessment (TIA), provide by Traffix Traffic and Transport Planners dated June 2020. A total of 295 spaces are provided within these 7 parking areas.

Staff and students also park on the surrounding road network, generally within the vicinity of existing access points to the School, including along Foley and Bassett Place, as well as on Old Castle Hill Road and First Farm Drive, which are located in the neighbouring Hills Shire.

The original TIA document justified that the loss is parking spaces was considered to be acceptable and provided the following justification

The Hornsby Council Development Control Plan (DCP) 2013, Part 1 - General, requires educational establishments to provide 1 parking space per full time teacher and 1 parking space per 2 students of driving age. It is emphasised that the development proposes no increase in either staff or student numbers, thus is not required to provide any additional car parking spaces. It is noted that the proposed

Innovation Hub will result in the loss of 63 parking spaces, thus an assessment of historical parking demand data will be utilised to determine if the removal of 63 parking spaces is to be supportable from traffic engineering perspective and whether additional demand management initiatives are required. The utilisation of historic parking data is considered appropriate in this circumstance due to the following:

- *The student and staff population has remained largely unchanged since the surveys were undertaken. The My School website states that the 2014 student and staff population was 1,668 and 137 respectively, whilst the 2019 population was 1,667 and 127 respectively;*
- *There have been no major projects within the school grounds;*
- *Overall car parking numbers have remained unchanged; and*
- *Improved public transport within the locality*.

The TIA outlined parking survey data from 2014. The TIA stated the following:

The survey demonstrated that on-site parking peaked at 10:30am with 216 parking spaces (73.2%) occupied and 79 parking spaces (26.8%) vacant. A steady demand of about 200 vehicles (68% occupancy) occurred until 3:00pm when staff began leaving the school grounds. By 5:00pm only 48 parking spaces were occupied.

The removal of 63 staff parking spaces is also considered supportable from a traffic planning perspective given that upwards of 95 car parking spaces are vacant throughout the day.

Council's assessment of the provided TIA and site inspection of the site raised concerns regarding the age of the data provided, and the existing parking practices being undertaken at the School. Site inspections undertaken by Council officers noted that access to Car Park A was restricted via the use of bollards, and no vehicles were observed parking in this area.

Council officers also noted that there was insufficient information regarding the students of parking age in the TIA.

Concurrent to Council's traffic assessment, the public notification period was being undertaken. During this period Council received a number of submissions raising concerns regarding the existing parking situation on local streets surrounding the school. Submitters argued that the loss of further carparking spaces on site was unacceptable, as the parking situation in the surrounding area was already nearing capacity.

Further information was requested of the applicant, in the form of updated traffic data and further explanation of the use of Car Park A. To assess the community's concerns regarding on street parking, an on-site parking and on-street parking survey (for adjacent residential streets in Hornsby and Hills Council areas) was requested to obtain data for a typical school day, to demonstrate overall parking demand.

A response to Council's requested information was received on 29 September 2020, in the form of a Supplementary Traffic Assessment prepared by Traffix.

The Supplementary Traffic Assessment identified that Council's request to provide on-street parking surveys is considered impractical in the current circumstances as student numbers at the college had significantly reduced as Year 12 students have left the college at the end of Term 3 2020 to study for

their Higher School Certificate (HSC). COVID-19 was also sited as a factor impacting the regular use of private motor vehicles.

Council accepted this explanation and did not require the submission of a on street parking survey as it was further noted that the proposed development did not seek to increase student or staffing numbers and as such, an overall parking demand would not be present if sufficient car parking was available on site.

In regard to the provision of updated on-site parking data, the Supplementary Traffic Assessment provided the following information:

The Hornsby Council Development Control Plan 2013, Part 1 - General, requires educational establishments to provide 1 parking space per full time teacher and 1 parking space per 2 students of driving age. The college has advised that there are 122 full time teachers and an average of 238 students of driving age on campus in 2020. Application of Council's parking rates require the college to provide 241 parking spaces. It should be noted that the college currently provides 295 parking spaces (including car park A) and that 63 spaces will be removed to accommodate the proposed innovation hub development. This results in a net parking supply of 232 spaces, nine (9) spaces short of the DCP requirement. This is considered an acceptable and minor non-compliance with the DCP (3.7%), noting the following:

a. *The proposed innovation hub will provide significant benefits to the students at the college when compared to the shortfall of only nine (9) spaces; and*

b. *A Green Travel Plan (GTP) and Travel Access Guide (TAG) could be prepared for students and teachers at the college. The main objective of the GTP is to reduce the reliance on car drivers by promoting the use of sustainable transport methods.*

Council noted that the above calculation concluding that there was a parking shortfall of 9 spaces on site was conducted utilising an "average" number of 238 students of driving age.

The average number of students is a reflection of students in year 11 and 12 who, at different times of the year, are not required to be at the school campus. One such example would be when year 12 students leave the school campus to study full time prior to the HSC.

The HDCP does not take into account fluctuating student numbers of driving age. It was therefore requested of the applicant to provide the total number of students of driving age at the school, regardless of whether they happen to be at campus at that point in time.

A further report was prepared by Traffix, dated 4 December 2020, that outlined at September 2020 there was 317 students of driving age. Coupled with the 122 teachers on site, 281 car parking spaces were required to be provided on site. The removal of the 63 spaces to accommodate the innovation building resulted in a parking shortfall of 49 spaces.

To accommodate the parking shortfall, the applicant proposed the conversion of an existing sealed play area to a 52 space car park, resulting in a surplus of three spaces.

Council considers that the conversion of the existing play space to a 52 space carpark is an acceptable outcome, as it is not considered that a parking shortfall of 49 spaces is acceptable. Such a shortfall would naturally be facilitated by the local road network, worsening existing parking problems identified by the community. The loss of the play area for use as a carpark is not considered to be detrimental to the students, as sufficient alternate play areas are available for use on the 18.2 hectare site.

Additionally, Council recommends the imposition of operational conditions of development consent that prevent the closure of any car parking area on site from the use of students or teachers.

Subject to the imposition of these conditions, it is considered that the development is acceptable, with respect to traffic and parking impacts.

2.8.7 Design Details

The relevant desired outcome of Part 7.1.8 Design Details of the HDCP is for *"Development that compliments the streetscape*".

This desired outcome is supported by prescriptive measures that state that building design should complement the desired future character of the zone, which includes a detailed list of design areas in which consideration should be provided.

Part 2.6.1 of this report provides a detailed assessment of the development against the design requirements contained within the *Education SEPP*. As part of this assessment, an assessment of how the development relates to the adjoining low-density residential environment is included. The proposal is considered to be compatible with the sites zoning, and the desired future character of the site.

2.8.8 Heritage

Part 9 of the HDCP provides heritage controls for development of heritage items, development near heritage items or development within the Heritage Conservation Areas contained within the shire. These controls, in conjunction with the requires of Clause 5.10 of the *HLEP* are discussed within Part 2.1.4 of this report.

2.9 Section 7.12 Contributions Plan

Hornsby Shire Council Section 7.12 Contributions Plan 2019- 2029 applies to the development as the estimated costs of works is greater than $100,000. Should the application be approved, an appropriate condition of consent is recommended requiring the payment of a contribution in accordance with the Plan.

3. ENVIRONMENTAL IMPACTS

Section 4.15(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

All trees within the Hornsby Shire are protected under Part 1B.6.1 of the HDCP, with the exception of a succinct list of exempt trees identified within Table 1B.6(a).

The proposal involves the removal of 39 established trees to facilitate the construction of the innovation hub. The site currently contains a car park, two buildings and landscaped gardens. The vegetation found within the development area is exotic with two only locally indigenous species present, being *Eucalyptus pilularis* (Blackbutt).

The *Flora and Fauna Assessment* version 2.0 provided by Narla Environmental dated June 2020, identifies the area of impact to be 0.18ha of combined native and exotic vegetation. It is noted that the

area to be developed has historically been cleared, and the vegetation to be removed is to be offset with replacement planting species elsewhere on the property.

The threatened species *Syzigium paniculatum* (Magenta Lilly Pilly) was identified within the development footprint. While this species is listed under the *Biodiversity Conservation Act 2016*, it has been planted in its current location. The property contains ample space for replacement planting with 46 proposed replacement trees allocated within the Landscaping Plan and for this reason, it is considered that the proposal adequately offsets the tree loss within the building footprint.

In addition to the trees proposed to be removed, a number of trees would be located in close proximity of the proposed development. In order to ensure that the health and longevity of these trees would be retained throughout the development, appropriate conditions of development consent have been recommended in Schedule 1 of this report for the appointment of a project arborist, and the preparation of tree protection plans prior to the issue of a construction certificate.

3.1.2 Stormwater Management

The supplied Civil and Stormwater Plans prepared by SCP Engineers and Development Consultants identify that all stormwater from roof areas and proposed ground level hardstand will be disposed of via the existing stormwater easement located adjacent to the northern boundary of the site.

Council raises no objections to the disposal of stormwater in this manner, subject to the installation of a detention system to control flows entering the easement, and the installation of water quality treatment to ensure that the quality of stormwater leaving the site meets the criteria specified within the HDCP.

Subject to the imposition of these conditions, the proposed development is considered to adequately dispose of stormwater.

3.2 Built Environment

3.2.1 Noise and Vibration

The desired outcome of Part 1C.2.5 Noise and Vibration of the HDCP is for "*Development designed and managed to minimise noise and vibration impacts on the occupants of residential dwellings and other noise sensitive land uses*."

The innovation hub is closely located to low density residential development adjacent to the northern site boundary. Consequently, it is in proximate location to multiple sensitive receivers which may be susceptible to noise and vibration impacts.

The applicant provided an Acoustics Report, prepared by Norman Disney & Young, dated 12 June 2020 to support the application. Council's assessment of the report identified insufficiencies regarding mechanical plant noise, acoustic levels as measured at sensitive receivers and noise from students utilising the north facing veranda.

The applicant provided updated details to Council, which culminated with the submission of a final acoustic report dated 3 December 2020.

Council raises no objections to the development on acoustic grounds with the exception of the open, north facing 'ground floor' veranda, which overlooks the residential properties to the north. The supplied Acoustic Report provides that the veranda will be freely accessible for students and provides preliminary noise calculations for the use of this veranda.

The Acoustic Report notes that no mechanical plant is located on the balcony and that the primary source of noise generation would be via students accessing the veranda as follows:

Our preliminary calculations predict a compliant noise level of 43 dBA (for noise intrusiveness) at the boundary will be achieved based off the following assumptions:

- *A full class of students (approximately 30 students) are on the verandah at any given time,*
- *Students are split up into 7 groups of 4 with 1 person from each group talking at any given time; resulting in 7 students are talking continuously and simultaneously, at normal speech levels, at any given time.*
- *An average distance of 8 meters between the students and the boundary.*

We also note that the long-term background noise levels have been measured at 45 dBA (LAeq) and therefore, with the above assumptions, predict noise from speech will be at or near background noise levels.

Council raises concern that the acoustic assessment presents predicted noise emissions from student speech modelled under a set of specific assumptions which do not represent a 'worse-case scenario' and would be impractical to replicate in the real world.

Accordingly, Council considers that the modelled noise behaviour presented in the Acoustic Report is non-representative of the likely future use of this area and consequently there is potential for actual noise emissions to be considerably higher than the levels predicted.

Council notes that the supplied architectural plans indicate free access to the north facing veranda from outside the building, with access available adjacent to the western and eastern building elevations. Internal access is also available via GPLA 00.02. Council considers that the use of the north facing veranda would likely be inconsistent with the usage modelled in the Acoustics Report with uncontrolled access to the space providing a contributing factor.

Council notes that the Acoustic Report predicts compliance with the identified project noise trigger levels for use of the north facing veranda based on modelling of student speech at normal levels, however, no modelling has been provided for student speech at elevated levels or speech at elevated levels by teacher/s and instructor/s. Further, the noise modelling relies upon students being located an average 8 metres from the (northern lot) boundary, which does not correlate to the setback of the veranda, which at its closest point is setback 4.3 metres from the northern boundary.

Having regard to the impracticalities of imposing enforceable restrictions on speech levels, the number of persons conversing simultaneously and/ or the position of those persons on the veranda relative to the northern boundary, a plan of management condition of consent is considered not to be a viable solution to control noise generated from use of the proposed veranda.

Consequently, in the absence of sufficient information to adequately demonstrate that the use of the north facing veranda would not result in unacceptable acoustical amenity impacts to the adjacent sensitive residential receivers to the north, it is considered that the north facing veranda should be converted to a non-trafficable space, and access restricted to maintenance personnel only.

An appropriate condition of development consent to this effect has been included in Schedule 1 of this report.

Subject to the imposition of this condition, it is considered that the development would meet the desired outcome of Part 1C.2.5 Noise and Vibration of the HDCP and is considered acceptable.

3.3 Social and Economic Impacts

The development would have a positive impact by modernising facilities provided at an existing educational institution, and further utilising land within the boundaries of the existing school for educational purposes. Subject to the imposition of the conditions of consent recommended in Schedule 1 of this report, amenity impacts on the immediate residential community can also be adequately controlled.

A minor positive economic impact will occur during the construction phase, via continued employment of construction workers. As the proposal does not include any increase in student or staffing numbers, it is not considered that there would be a tangible economic increase at the school itself, beyond the marketing of the new facilities to retain existing student numbers in future years.

4. SITE SUITABILITY

Section 4.15(1)(c) of the Act requires Council to consider *"the suitability of the site for the development"*.

4.1 Flooding

The development site is flood prone, with a 1/100 year average recurrence interval overland flow path impacting the south eastern portion of the site. The proposed innovation hub building would be located at a distance of over 300m from the flood affected portion and would be elevated approximately 20 metres above the overland flow path and therefore would not be impacted by flood waters

4.1.1 Bushfire

The site is bushfire prone, with a north western portion of the site being within 100 metres of bushfire prone vegetation. The bushfire prone portion of the development site would be located approximately 200m to the north west of the proposed innovation hub location.

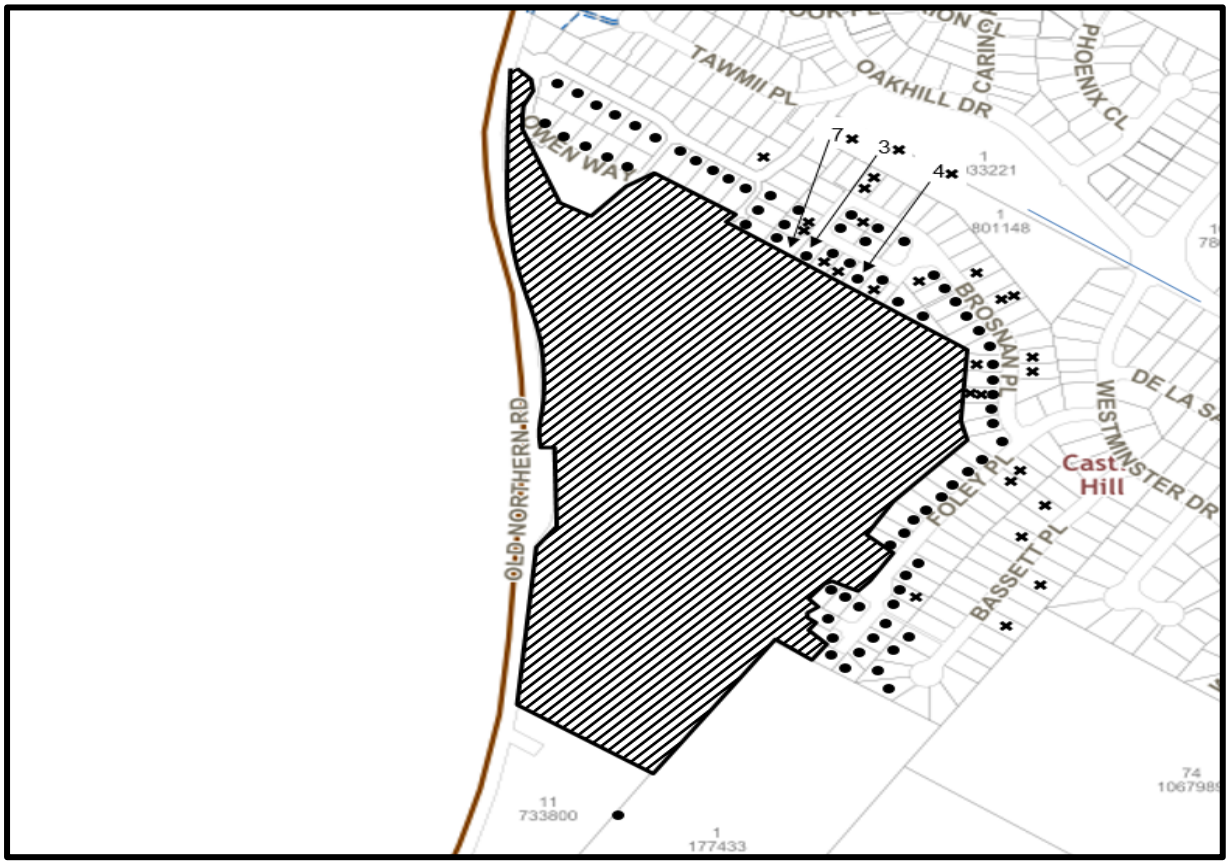
The development of bushfire prone land for a school is identified as integrated development under Section 100B of the *Rural Fires Act 1997*. The application was forwarded to the New South Wales Rural Fire Service (RFS) for comment, who provided general terms of approval which have been included in Schedule 1 of this report.

5. PUBLIC PARTICIPATION

Section 4.15(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 within the Hornsby and Hills Shire in accordance with the *Hornsby Community Participation Plan*. Notification was undertaken in two notification periods, with properties in the Hornsby Shire being notified from 16 July 2020 to 6 August 2020 and properties in the Hills Shire being notified from 9 to 25 February 2021. During the notification periods, Council received 58 submissions, of which all were by way of objection. 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 OF DEVELOPMENT	N W E S
18 SUBMISSIONS RECEIVED OUT OF MAP RANGE AND / OR NO ADDRESS GIVEN 39 PROPERTIES NOTIFIED IN HILLS SHIRE LGA (NOT SHOWN)			

58 submissions objected to the development, of which, 11 were in the form of a form letter. Submissions objected to the development generally on the following grounds:

- Noise and privacy impacts, especially to properties in Armidale Crescent, however submissions detail a general theme of lowered amenity for all surrounding residential allotments, both during construction / demolition and ongoing operation of the new building.
- Traffic Impacts to the local road network. Currently, students of driving age park in the surrounding local road network during school hours, particularly on Foley and Bassett Place to the south east of the school. Traffic impacts are detailed to be most pronounced during school drop off and pick up times. The proposal would remove 63 spaces from the School site and consequently, submissions contest that this may worsen existing traffic and parking issues around the school.

- Bulk and scale of the building being excessive / out of character for the area and causing amenity issues to surrounding residences.
- Location of building being close to boundary of school.
- Demolition and construction impacts, including construction traffic, dust, noise and vibration.
- Heritage Impact.
- Environmental Impacts from loss of flora on site.
- Use of Armidale Crescent Access for deliveries.

Whilst the above topics have been generally been addressed in the body of this planning report, further detail is provided on key areas of community concern, as outlined below;

5.1.1 Traffic and Parking Impacts

Community submissions outlined numerous areas of concern with regard to traffic and parking impacts on the local road system. In particular, Foley and Bassett Place were identified as local roads that suffered parking impacts associated with the existing school.

Community concerns outlined issues that are inherent to the use of the site as a school, such as poor traffic around school drop off and pick up times, and students parking their vehicles within residential streets on school days.

Community submissions also raised general concerns regarding existing traffic impacts on the surrounding residential environment. These concerns included general student behaviours whilst driving vehicles in the surrounding neighbourhood, with concerns raised regarding safety, speed, and dangerous driving. Concerns were also raised regarding garbage vehicle access around parked cars, and the potential impact of construction traffic.

Finally, submissions raised concerns regarding the management of existing car parking spaces within the site, with some submissions noting that parking spaces were allocated on a “lottery” basis, due to demand being greater than the available supply on the site.

Council’s assessment did not identify any “lottery” type parking systems in place on the site but did note that current parking management included the deliberate closure of Car Park A from vehicles. As Car Park A is required to be in use to satisfy the parking demand on site and ensure compliance with the parking rates included in the HDCP, Council recommends that a condition of development consent requiring all car parking areas to remain open for the use of vehicles.

As the proposal does not include any increase in student or teacher rates, no additional traffic is anticipated post construction.

During construction and demolition, vehicle access would be required to the site. Council recommends the implementation of a construction management plan to control construction traffic, and appropriate conditions of development consent to this effect are recommended in Schedule 1 of this report. Additionally, a condition requiring all construction traffic to enter via Old Northern Road is included in Schedule 1, so that construction traffic is not utilising the local residential road network.

5.1.2 Tree Preservation

Community submissions raised concerns regarding tree removal on the site, with concerns being raised regarding general tree removal, tree removal for bushfire purposes and tree removal for site sheds and vehicular access.

A general discussion regarding tree removal is provided in Part 3.1.1 of this report.

With reference to trees proposed to be removed for bushfire preservation, submissions raised concerns that an Inner Protection Area (IPA) would be required to be implemented cross the whole site, which would require no more than 15% tree coverage.

As the site is bushfire prone, the application was forwarded to the New South Wales Rural Fire Service (RFS) for comment, who provided general terms of approval which have been included in Schedule 1 of this report. These general terms of approval did not require the establishment of a site wide IPA and did not prescribe maximum canopy coverage across the site. Consequently, no conditions requiring the implementation of an IPA on the site are recommended in Schedule 1 of this report.

With respect to trees proposed to be removed for site sheds, storage and vehicular manoeuvring space, the Arboricultural Impact Assessment Report, prepared by Truth about Trees, dated 24 June 2020 identifies that all of the 15 trees proposed for removal for this purpose are located in the centre of the development, between the site of the new innovation hub building and the Mutein and Wagan buildings to be demolished. The Arboricultural Report identifies that the trees are of a low retention value and does not consider that the trees are worthy of being a development constraint. These 15 trees are amenity trees planted within the existing play area. The loss of these trees would be offset via the planting of trees back into the forecourt area of the innovation hub building, as depicted in the landscaped plans. Consequently, Council raises no objections to the removal of these trees.

5.1.3 Engagement Outcomes Report

Community submissions raised concerns that the applicant's Engagement Outcomes Report was not comprehensive in nature, was a rushed process, and tokenistic in nature.

Prior to the submission of the development application, the applicant undertook a process of community consultation with select surrounding property owners. This process took the form of a letterbox drop, the distribution of a fact sheet, an opportunity to attend an online briefing and the establishment of dedicated email addresses and phone numbers for the community to contact the applicant.

The applicant then prepared an Engagement Outcomes Report detailing the process, which was submitted to support the development application.

Submissions contest that this process was not extended to a wide enough catchment of adjoining residents, was rushed and residents were not afforded sufficient time to respond, and that the process was "tokenistic" and did not deeply consider the issues raised by residents.

In response to these concerns, Council notes that the community consultation process undertaken by the applicant was initiated by the applicant, and outside of the requirements of any community consultation described in the *Environment Planning and Assessment Act 1979*, the subordinate statutory instruments, relevant legislation or the *Hornsby Shire Community Participation Plan*. Consequently, the methods by which the applicant chose to undertake this process are not governed by Council.

5.1.4 Accessibility Report

Community submissions raised concerns regarding the Accessibly Report recommending that a disabled space be provided on Armidale Crescent, with pedestrian access provided via the existing Armidale Crescent vehicular access. The reason for the provision of the disabled space on Armidale Crescent was because existing travel paths from pedestrian entries did not comply with gradient requirements for persons with a disability.

Council's review of the "Access Review" report, Final Version 4, prepared by Morris Goding Access Consulting does not identify any plans for the provision of an accessible space on Armidale Crescent and notes that the report identifies that accessible spaces can be provided in accordance with the following extract:

In lieu of an accessible path of travel within the meaning of AS1428.1, MGAC supports a performance solution with an accessible drop off area to be provided adjacent to College buildings for students with mobility impairments. An accessible car bay will be provided for staff with mobility impairments.

No suggestion that Armidale Crescent would be utilised is provided in the Access Review report and the recommended conditions in Schedule 1 of this report do not provide for disabled access via Armidale Crescent.

5.1.5 Service Path

Community submissions raised concerns regarding the loose stone service path located between the innovation hub building and the northern side boundary. Submissions raised concerns that vehicles may utilise this pathway which would present as a hazard if they were to veer of the pathway and fall into neighbouring properties.

In response to these concerns it is noted that the pathway provides service access to the rear side of the building. Vehicular access is anticipated to be infrequent and not available to students or staff. Bollards are depicted on the proposed plans to restrict entry to this area which is considered to be a satisfactory control to prevent unauthorised vehicular access to the service path.

5.1.6 Stormwater and Sewerage

Community submissions raised concerns regarding potential stormwater and sewerage impacts arising from the development.

In response to these concerns, it is noted that the recommended conditions in Schedule 1 of this report require the stormwater system to be designed by a suitably qualified engineer and be designed for a 1/20 year average recurrence interval event.

Additionally, as Council does not administer the sewerage or water supply systems, a condition of consent is recommended in Schedule 1 for the applicant to contact Sydney Water for approval prior to the submission of a construction certificate.

5.2 Public Agencies

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

5.2.1 Rural Fire Service

As outlined in Part 4.1.1 of this report, the development of bushfire prone land for a school is identified as integrated development under Section 100B of the *Rural Fires Act 1997*. The application was

forwarded to the New South Wales Rural Fire Service (RFS) for comment, who provided general terms of approval which have been included in Schedule 1 of this report.

6. THE PUBLIC INTEREST

Section 4.15(1)(e) of the Act requires Council to consider *"the public interest"*.

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

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

7. CONCLUSION

The application proposes the demolition of two education buildings and construction of an innovation hub within existing educational establishment.

The development generally meets the desired outcomes of Council's planning controls and is satisfactory having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979.*

Council received 58 submissions during the public notification period. The matters raised have been addressed in the body of the report.

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

The reasons for this decision are:

- The proposed development complies with the requirements of the relevant environmental planning instruments, including the *State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017*, the *Hornsby Local Environmental Plan 2013* and the *Hornsby Development Control Plan 2013*.
- The written request pursuant to Clause 4.6 of the *Hornsby Local Environmental Plan 2013* to vary the height of buildings development standard contained within Clause 4.3 adequately establishes that compliance with the development standard is unnecessary in the circumstances of the development, and that sufficient environmental planning grounds exist to justify the contravention of the development standard.
- The proposed development does not create unreasonable environmental impacts to the adjoining residential development with regard to visual bulk, overshadowing, solar access, traffic, parking, amenity or privacy.

Note: At the time of the completion of this planning report, no persons have made a *Political Donations Disclosure Statement* pursuant to Section 10.4 of the *Environmental Planning and Assessment Act 1979* in respect of the subject planning application.

SCHEDULE 1

GENERAL CONDITIONS

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

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

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

1. Approved Plans and Supporting Documentation

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

Approved Plans:

Plan No.	***Plan Title***	***Drawn by***	***Dated***	***Council Reference***
AR-AR-A21_00-01 Issue 5	Existing Site / Demolition Plan	BVN	16.12.2020	
AR-A10_03-01 Issue 2	Site	BVN	02.06.2020	
AR-A10_03-03 Issue 4	Proposed Site Plan	BVN	26.06.2020	
AR-A10_03-04 Issue 3	Proposed Site Plan	BVN	26.06.2020	
AR-B10_01-01 Issue 9	General Arrangement Plan – Level 01	BVN	23.09.2020	

Plan No.	*Plan Title*	*Drawn by*	*Dated*	*Council Reference*
AR-B10_02-01 Issue 8	General Arrangement Plan – Level 02	BVN	26.06.2020	
AR-B10_03-01 Issue 7	General Arrangement Plan - Roof	BVN	26.06.2020	
AR-B10_LG-01 Issue 8	General Arrangement Plan – Lower Ground	BVN	26.06.2020	
AR-B10_00-01 Issue 10	General Arrangement Plan – Ground	BVN	09.12.2020	
AR-C10_XX-01 Issue 6	Overall Elevations	BVN	09.12.2020	
AR-C10_XX-02 Issue 7	Overall Elevations	BVN	09.12.2020	
AR-D10_XX-01 Issue 6	Long Sections	BVN	09.12.2020	
SK.01 Rev A	Swept Path Analysis	Traffix Traffic and Transport Planners	1.12.2020	
P20196	Landscape Concept Plan	Urbis	December 2020	
P20196	Planting Plan	Urbis	December 2020	
P20196	Planting Schedule	Urbis	December 2020	
C-02-01 Rev B	Bulk Earthworks Plan	SCP Engineers and Development Consultants	24/06/20	

Plan No.	*Plan Title*	*Drawn by*	*Dated*	*Council Reference*
C-03-01 Rev B	Siteworks and Grading Plan	SCP Engineers and Development Consultants	24/06/20	
C-03-11 Rev B	Pavement Plan	SCP Engineers and Development Consultants	24/06/20	
C-05-01 Rev B	Stormwater Drainage Plan	SCP Engineers and Development Consultants	24/06/20	
C-05-61 Rev A	Stormwater Drainage Details	SCP Engineers and Development Consultants	24/06/20	
C-05-62 Rev B	On Site Detention and Water Quality Improvement Details	SCP Engineers and Development Consultants	24/06/20	
C-06-01 Rev B	Erosion and Sediment Control Plan	SCP Engineers and Development Consultants	24/06/20	
C-06-11 Rev B	Erosion and Sediment Control Details	SCP Engineers and Development Consultants	24/06/20	

Supporting Documentation:

Document Title	*Prepared by*	*Dated*	*Council Reference*
Traffic Impact Assessment	Traffix Traffic and Transport Planners	24/06/2020	
Updated Traffic Comment and Plan	Traffix Traffic and Transport Planners	4/12/2020	D08071496
Acoustics Report	Norman Disney and Young	3/12/2020	D08071495
Construction Management Plan Version 02	Mostyn Copper	23/09/2020	D08022871

Document Title	*Prepared by*	*Dated*	*Council Reference*
Hazardous Building Materials Survey	JK Environments	25/09/2020	D08022868
Clause 4.6 Variation – Height of Buildings – V2W	Urbis	-	D08022867
Civil Design Report	SCP Engineers and Development Consultants	24/06/2020	D07946928
Bushfire Assessment	David Peterson	29/05/2020	D07946925
Arboricultural Impact Assessment	Truth About Trees	24/06/2020	D07946921
Waste Management Plan	Oakhill College	Undated	D07946916
Heritage Impact Assessment	Urbis	24/06/2020	D07946907
Geotechnical Investigation	JK Environments	24/02/2020	D07946906
Flora and Fauna Assessment Report	Narla Environmental	June 2020	D07946905
Education SEPP – Schedule 4 School Design Principles	BVN	24/09/20	D08022869
Innovation Hub Built Form and Design Clarification Pack	BVN	Undated	D08051190
Access Review Report	Morris Goding Access Consulting	18/06/2020 Version 4	D07946917

2. Amendment of Plans

a) To maintain acoustic privacy, the approved plans are to be amended as follows:

i) The entirety of the north facing ground floor “Verandah” as shaded in red on the approved “General Arrangement Plan - Ground” is to be converted into non-trafficable space, and access is to be restricted to maintenance personnel only.

b) These amended plans must be submitted with the application for the Construction Certificate.

3. Removal of Trees

This development consent permits the removal of 39 trees as identified in the tree schedule within the Arboricultural Impact Assessment report, prepared by Truth About Trees, dated 24 June 2020 Version 4.

Note: The removal of any other trees from the site requires separate approval by Council in accordance with Part 1B.6 Tree and Vegetation Preservation of the Hornsby Development Control Plan, 2013.

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 construction works under this consent.

b) The Construction Certificate / Subdivision Works Certificate plans must be consistent with the Development Consent plans.

5. Section 7.12 Development Contributions

a) In accordance with Section 4.17(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 7.12 Development Contributions Plan 2019 - 2029*, **$196,102.90** must be paid towards the provision, extension or augmentation of public amenities or public services, based on development costs of **$19,610,291.51**.

b) The value of this contribution is current as of **9 February 2021** If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 7.12 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

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 of this Development Consent.

c) The monetary contributions shall 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.

Note: The Hornsby Shire Council Section 7.12 Development Contributions Plan may be viewed at www.hornsby.nsw.gov.au or a copy may be inspected at Council's Administration Centre during normal business hours.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

6. Photographic Archival Record

a) A photographic archival record of the significant landscape features and exterior of the two buildings to be demolished/removed must be undertaken prior to the commencement of works.

b) The photographic record should be generally undertaken in accordance with Heritage NSW guidelines and 1 complete 'hard' copy submitted to Hornsby Council, plus an electronic copy.

c) The photographic and measured drawing record shall include (but not limited to) an accurate site plan showing the main buildings and garden elements within and around the development footprint.

d) Satisfaction of this condition shall be confirmed by written advice by Council's Strategic Planning Branch prior to the issue of the construction certificate.

Note: Application to Council's Strategic Land Use Planning Branch can be made via devmail@hornsby.nsw.gov.au

7. Archaeological Impacts

a) A suitably experienced archaeologist shall be appointed, and an archaeological assessment to identify if the foundations of the former boarding house may survive within the footprint of the development, shall be undertaken, completed and submitted to Council prior to the issue of any Construction Certificate that will apply to the Sir Edward Owen Cox period of occupation of the site and area of 1930s dormitory building.

b) The archaeological assessment should also identify if any predicted surviving remains may have heritage significance, the means to mitigate any adverse heritage impacts which may include monitoring, recording or other archaeological action and identify if the disturbance or excavation of any relics may require approval or an application to seek an Exception to any approval, under the *Heritage Act (NSW) 1977*.

c) Any approval or Exception to an approval that may be required under the *Heritage Act* must be obtained prior to commencement of works that may disturb area of the 1930s dormitory building.

d) Satisfaction of this condition shall be confirmed by written advice by Council's Strategic Land Use Planning Branch prior to the issue of the construction certificate.

Note: Application to Council's Strategic Land Use Planning Branch can be made via devmail@hornsby.nsw.gov.au.

8. Interpretation Plan

a) Preparation of an interpretation plan by a suitably experienced heritage consultant to the interpret the loss of the c1920s stairs and the extensive Federation period cultural landscape developed across the site by Sir Edward Owen Cox.

b) Satisfaction of this condition shall be confirmed by written advice by Council's Strategic Land Use Planning Branch prior to the issue of the construction certificate.

Note: Application to Council's Strategic Land Use Planning Branch can be made via devmail@hornsby.nsw.gov.au

9. Building Code of Australia

Detailed plans, specifications and supporting information is required to be submitted to the certifying authority detailing how the proposed building work achieves compliance with the *National Construction Code - Building Code of Australia*. All building work must be carried out in accordance with the requirements of the National Construction Code - Building Code of Australia.

10. Fire Safety Schedule

A schedule of all proposed essential fire safety measures to be installed in the building (e.g. hydrants, hose reels, emergency warning systems etc.) shall be submitted with the construction certificate application. The schedule shall distinguish between existing and proposed fire safety measures and shall include all buildings that have fire safety measures situated at the property. The schedule shall distinguish between each building and what measures are contained in each building on the schedule.

11. Sydney Water – Approval

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

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

12. Car Parking and Deliveries

All car parking must be constructed and operated in accordance with *Australian Standard AS 2890.1-2004 Off Street Car Parking* and *Australian Standard AS2890.2-2002 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.

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. Stormwater

The stormwater drainage system for the development must be designed for an average recurrence interval (ARI) of 20 years and be gravity drained via on site detention and water quality treatment systems in accordance with the following;

a) Connection shall be made to the existing drainage system; and

b) The system must be designed by a Chartered Professional Civil/ Hydraulic Engineer of the Institution of Engineers, Australia

15. On Site Stormwater Detention

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

a) Storage capacity to accommodate volume from up to 20 years ARI (average recurrence interval) storms and a maximum discharge (when full) limited to 5 years pre development rate.

b) The OSD must have a surcharge/inspection grate located directly above the outlet. Discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.

c) Where above ground system is proposed and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs to be installed.

d) Detailed calculations are to be shown in construction certificate plan.

e) An overflow/escape path shall be incorporated in the design.

16. Water Sensitive Urban Design

A Water Sensitive Urban Design is to be designed and constructed. The stormwater leaving the premises must achieve the quality as specified in Council's Development Control Plan 2012 (table 1C.1.2(b) Urban Stormwater Quality Targets) or utilise one of the deemed to comply solutions. The design shall be based on Hornsby Council parameters as contained in the MUSIC Model. The design is to be carried out by a Chartered Professional Civil/ Hydraulic Engineer of the institution of Engineers, Australia.

17. Internal Driveway/Vehicular Areas

The driveway and parking areas on site must be designed, constructed and a Construction Certificate issued in accordance with *Australian Standards AS2890.1, AS2890.2, AS3727* and the following requirements:

a) The driveway be a rigid pavement.

b) The driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent.

c) The driveway pavement be a minimum 3 metres wide, 0.15 metres thick reinforced concrete with F72 steel reinforcing fabric and a 0.15 metre sub-base.

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

e) Car parking, loading and manoeuvring areas to be used solely for nominated purposes;

18. Construction Environmental Management Plan (CEMP)

To assist in the protection of the public, the environment and Council's assets, a separate Construction Environmental Management Plan must be prepared by a suitably qualified environmental consultant in consultation with a qualified traffic engineer and AQF 5 arborist, and submitted to Council's Compliance Team at:

https://www.hornsby.nsw.gov.au/property/build/applicationforms for review and approval.

The CEMP must include the following details:

a) A Construction Traffic Management Plan (CTMP) including the following:

i) The order of construction works and arrangement of all construction machines and vehicles being used during all stages.

ii) The CTMP plans shall be in accordance with all other plans submitted to Council as part of this development proposal.

iii) A statement confirming that 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.

iv) The Plan shall be in compliance with the requirements of the Roads and Maritime Services *Traffic control at work sites Manual 2018* and detail:

a. Public notification of proposed works;

b. Long term signage requirements;

c. Short term (during actual works) signage;

d. Vehicle Movement Plans, where applicable;

e. Traffic Management Plans;

f. Pedestrian and Cyclist access and safety.

v) Traffic controls including those used during non-working hours. Pedestrian access and two-way traffic in the public road must be able to be facilitated at all times.

vi) Details of parking arrangements for all employees and contractors, including layover areas for large trucks during all stages of works. The parking or stopping of trucks associated with the development will not be permitted other than on the site and the plan must demonstrate this will be achieved.

vii) Confirmation that a street 'scrub and dry' service will be in operation during all stages of works.

viii) Proposed truck routes to and from the site including details of the frequency of truck movements for all stages of the development.

ix) Confirmation that all construction access will be via Old Northern Road, with no construction access permitted via Armidale Crescent or Foley Place.

x) Swept path analysis for ingress and egress of the site for all stages of works.

xi) Site plans for all stages of works including the location of site sheds, concrete pump and crane locations, unloading and loading areas, waste and storage areas, existing survey marks, vehicle entry, surrounding pedestrian footpaths and hoarding (fencing) locations.

xii) The total quantity and size of trucks for all importation and exportation of fill on site throughout all stages of works, and a breakdown of total quantities of trucks for each stage of works.

xiii) The number of weeks that trucks will be accessing and leaving the site with excavated or imported fill material.

xiv) The maximum number of trucks travelling to and from the site on any given day for each stage of works.

xv) The maximum number of truck movements on any given day during peak commuting periods for all stages of works.

xvi) The source site location of any proposed fill to be imported to the site, for all stages of works.

xvii) The Plan must state that 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.

xviii) If there is a requirement to obtain a Work Zone permit, Out of Hours permit, partial Road Closure or Crane permit from Hornsby Shire Council, these

approvals/permits are required to be provided as part of the Plan submitted to Council.

xix) If there is a requirement to obtain any permits, licences and/or approvals from the Roads and Maritime Services (RMS) or any State Authority the Plan, these documents must be provided as part of the Plan submitted to Council.

b) A Construction Waste Management Plan detailing the following:

i) Details of the importation or excavation of soil and fill, the classification of the fill, disposal methods and authorised disposal depots that will be used for the fill.

ii) Asbestos management requirement and procedures for removal and disposal from the site in accordance with *AS 2601–2001 – 'The Demolition of Structures'*, and the *Protection of the Environment Operations (Waste) Regulation 2005*.

iii) General construction waste details including construction waste skip bin locations and litter management for workers.

c) A Tree Protection Plan (TPP) prepared by an AQF 5 Arborist in accordance with any approved Arboricultural Impact Assessment and tree location plans, detailing the following:

i) A site plan showing tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and specific details of tree protection measures inclusive of distances (in metres) measured from tree trunks.

ii) Construction methodology to avoid damage to trees proposed to be retained during construction works.

iii) Specifications on tree protection materials used and methods within the TPZ or SRZ.

iv) Location of dedicated material storage space on site outside of TPZ's and SRZ's for retained trees.

d) A Construction Noise and Vibration Management Plan (CNMP) which includes:

i) Existing noise and vibration levels within the proximity of the proposed development site.

ii) Details of the extent of rock breaking or rock sawing works forming part of the proposed development works.

iii) The maximum level of noise and vibration predicted to be emitted during each stage of construction.

iv) The duration of each stage of works where the maximum level of noise and vibration are predicted to be emitted for.

v) Details of mitigation measures, inclusive of respite periods, that will meet acoustic standards and guidelines at each stage of works.

vi) Details of a complaints handling process for the surrounding neighbourhood for each stage of works.

e) An Environmental Management Plan (EMP) which includes:

i) All requirements of the Hazardous Materials Survey dated 25 September 2020 prepared by JK Environments;

ii) Asbestos Management Plan;

iii) Unexpected finds protocol;

iv) Water quality and soil management, including but not limited to sediment and erosion control measures and stormwater management;

v) Air quality;

vi) Noise management, including excavation noise mitigation measures to be implemented;

vii) Waste Management.

f) The CEMP must detail the contact information for developers, builder, private certifier and any emergency details during and outside work hours.

19. Appointment of a Project Arborist

a) To ensure the trees that must be retained are protected, a project arborist with AQF Level 5 qualifications must be appointed to assist in ensuring compliance with the conditions of consent and provide monitoring reports as specified by the conditions of consent.

b) Details of the appointed project arborist must be submitted to Council and the PCA with the application for the construction certificate/subdivision works certificate.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

20. 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.

21. 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; and/or

d) Have been identified as requiring a temporary hoarding, fence or awning within the Council approved Construction Management Plan (CMP).

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

22. 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.*

23. 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.

24. Installation of Tree Protection Fencing

a) All tree protection fencing, and any tree protection measures such as trunk, ground or canopy protection, as outlined in the approved Tree Protection Plan, must be installed prior to the commencement of any works.

b) To ensure that all tree protection measures are correctly installed, a certificate from the appointed project arborist must be submitted to the Principal Certifying Authority confirming compliance with the tree protection requirements of this consent.

c) The installation of all required tree protection fencing must include shade cloth attached to the fencing to reduce transport of dust, particulates and liquids from entering the tree protection zone.

25. Garbage Receptacle

a) A garbage receptacle must be provided at the work site before works begin and must be maintained until all works are completed.

a) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

b) The receptacle lid must be kept closed at all times, other than when garbage is being deposited.

c) Food scraps must be placed in the garbage receptacle and not in demolition and construction waste bins.

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION

26. Construction Work Hours

All works on site, including demolition and earth works, must only occur between 7am and 5pm Monday to Saturday.

No work is to be undertaken on Sundays or public holidays.

27. Demolition

To protect the surrounding environment, all demolition work must be carried out in accordance with *Australian Standard AS2601-2001 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; and

b) Demolition works, where asbestos material is being removed, must be undertaken by a contractor that holds an appropriate licence issued by *SafeWork NSW* in accordance with the *Work Health* and *Safety Regulation 2017* and be appropriately transported and disposed of in accordance with the *Protection of the Environment Operations (Waste) Regulation 2014;* 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.

28. Environmental Management

To prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction, 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*.

29. Site Access for Construction Vehicles

To protect residential amenity of the surrounding low density residential environment, all construction vehicle access must be via Old Northern Road, with no construction access permitted via Armidale Crescent or Foley Place for the duration of works.

30. Compliance with Construction Environmental Management Plan (CEMP)

The Council approved Construction Environmental Management Plan must be complied with for the duration of works, unless otherwise approved by Council.

31. Compliance with Tree Protection Plan

The Council approved Tree Protection Plan must be complied with for the duration of works, and to the satisfaction of the project arborist. Any deviations from the plan must be recorded and reported to the PCA by the project arborist.

32. Street Sweeping

a) To protect the surrounding environment, street sweeping must be undertaken following sediment tracking from the site along Old Northern Road during works and until the site is established.

b) 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.

33. 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.

34. Disturbance of Existing Site

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

35. Landfill not Permitted

The importation of fill material associated with earthworks, or structural or engineering works, is not permitted as part of this consent.

36. Excavated Material

All excavated material removed from the site must be classified by a suitably qualified environmental consultant in accordance with the NSW Environment Protection Authority's *Waste Classification Guidelines* and *Protection of the Environment Operations (Waste) Regulation 2014* prior to disposal to a licensed waste management facility. Tipping dockets for the total volume of excavated material that are received from the licensed waste management facility must be provided to the principal certifying authority prior to the issue of an Occupation Certificate.

37. Survey Report

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

a) Prior to the pouring of concrete at each level of the building certifying that:

i) The building, retaining walls and the like have been correctly positioned on the site; and

ii) The finished floor level(s) are in accordance with the approved plans.

38. Waste Management

All work must be carried out in accordance with the approved waste management plan.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

39. Fire Safety Statement – Final

In accordance with the *Environmental Planning and Assessment Regulation 2000*, upon completion of the building, the owner must provide Council with a certificate in relation to each fire safety measure implemented in the building.

40. Replacement Tree Requirements

a) The trees approved for removal under this consent, must be offset through replacement planting of a minimum of 46 trees.

a) A minimum of 2 replacement trees that are characteristic of the Blue Gum High Forest vegetation community must be planted on site, such as *Eucalptus pilularis* (Blackbutt).

b) All other replacement plantings must be species selected from the *'Trees Indigenous to Hornsby Shire (as of 1 September 2011)'* document available for viewing on the Hornsby Council's website *http://www.hornsby.nsw.gov.au/environment/flora-and-fauna/tree-management/indigenous-trees*

c) The location and size of tree replacement planting must comply with the following:

i) All replacement trees must be located in either the front or rear setbacks and planted 4 metres or greater from the foundation walls of the approved development and any existing development on the site.

ii) The pot size of the replacement trees must be a minimum 45 litres.

iii) All replacement trees must be a minimum of 3 metres in height.

iv) All replacement trees must have the potential to reach a mature height greater than 10 metres.

41. Final Certification

The AQF 5 Project arborist must submit to the Principal Certifying Authority a certificate that includes the following:

a) All tree protection requirements complied with the as approved tree protection plan for the duration of demolition and/or construction works and;

b) All completed works relating to tree protection and maintenance have been carried out in compliance with the conditions of consent and approved plans and;

c) Dates, times and reasons for all site attendance and;

d) All works undertaken to maintain the health of retained trees and;

e) Details of tree protection zone maintenance for the duration of works.

Note: Copies of monitoring documentation may be requested throughout the development works.

42. Acoustic Certification

On completion of all works and prior to the issue of an Occupation Certificate, the certifier is to be provided with a certificate from a qualified acoustic consultant certifying that all acoustic works have been completed in accordance with Acoustic Report prepared by Norman Disney and Young dated 3 December 2020 and this consent.

43. Water Sensitive Urban Design – Certification

Prior to occupation of the premises, a Chartered Civil/Hydraulic Engineer of the Institution of Engineers, Australia is to certify that all Water Sensitive Urban Design works have been completed in accordance with the approved construction plans and the design will achieve the specified targets.

44. 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 AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions. Rectification works must be undertaken prior to the issue of an Occupation Certificate, or sooner, as directed by Council.

45. Creation of Easements

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

a) The creation of an appropriate *"Positive Covenant"* and *"Restriction as to User"* over the constructed on-site detention and water sensitive urban design systems/rain water tanks and outlet works, within the lots in favour of Council in accordance with Council's prescribed wording. The positions of the on-site detention system and water sensitive urban design systems/ rainwater are to be clearly indicated on the title.

b) To register the positive covenant and the restriction on the use of land, *"works-as-executed"* details of the on-site-detention and water sensitive urban design systems must be submitted verifying that the required storage and discharge pipes of the on-site detention system and the water sensitive urban system/ rain water tank have been constructed in accordance with the design requirements. The details must show the

invert levels of pipes, pipe sizes and grades and filters/bio retention basin. Any variations to the approved plans must be shown in red on the *"works-as-executed"* plan and supported by calculations

46. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed diversion of Council pipe, overland flow path, footpath, driveway, on-site detention and water sensitive urban design systems. 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.

47. Completion of Works and Compliance Certificate

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

48. 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 depicted on the approved landscape plans have been satisfactorily completed.

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.

49. Submission of Excavated Material Tipping Dockets to Principal Certifying Authority

Tipping dockets for the total volume of excavated material that are received from the licensed waste facility must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

50. Installation of Privacy Devices

To establish and maintain a reasonable level of privacy for the adjoining premises, all horizontal privacy devices depicted on the northern building elevation must be permanently installed prior to the issue of an occupation certificate.

51. 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 occupation certificate.

52. Demolition of Structures

All structures noted for demolition on the approved demolition plans must be completely demolished and waste disposed of in accordance with the conditions of this development consent, prior to the issue of any occupation certificate.

53. 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*.

OPERATIONAL CONDITIONS

54. Noise

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

55. 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' certifying each essential service installed in the building.

56. Restriction on Armidale Crescent Entry

To ensure a reasonable level of residential amenity is maintained throughout the life of the development, and to prevent traffic congestion on Armidale Close, additional access to the site via the existing entry point located on Armidale Crescent is permitted as follows:

a) Deliveries are permitted by any vehicle smaller than or equal to the size of a medium rigid vehicle;

b) Deliveries via Armidale Crescent must be undertaken between the hours of 10am and 2pm Monday to Friday (excluding public holidays);

c) Deliveries via the Armidale Crescent entry point are permitted no more frequently than 8 occasions within any 12 month period.

d) A log must be kept of all deliveries via the Armidale Crescent entry, which is to be made available to Council staff on request.

e) The entry point must remain secured to prevent pedestrian and vehicular access at all times when the access point is not being utilised for deliveries, or for any other approved purpose.

Note: Nothing in this condition prevents the access from being utilised for any other approved use identified in any other relevant development consent.

57. On Site Car Parking Areas

To ensure that adequate car parking area is provided on site for the use of staff, students and teachers, all on site car parking spaces are to be made available for the parking of staff, student

and teacher vehicles at all times. The restriction of use of any parking area or parking spaces is not permitted.

58. Storage of Flammable and Combustible Goods

Flammable and combustible liquids must be stored in accordance with *Australian Standard AS1940 Storage and handling of flammable and combustible liquids*. If any liquids are to be stored externally to the building, a bund wall must be constructed around all work and liquid storage areas to prevent any spillage entering into the stormwater system. The bunded area must provide a volume equal to 110% of the largest container stored and graded to a blind sump so as to facilitate emptying and cleansing.

GENERAL TERMS OF APPROVAL – NSW RURAL FIRE SERVICE

The following conditions of consent are General Terms of Approval from the nominated State Agency pursuant to Section 4.47 of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

59. Landscaping

Intent of measures: to prevent flame impingement on the building and reduce the spread of fire.

Proposed landscaping shall comply with following principles:

a) Suitable impervious areas are provided immediately surrounding buildings such as courtyards, paths and driveways.

b) Grassed areas, mowed lawns or ground cover plantings are provided in close proximity to the buildings.

c) Planting is limited in the immediate vicinity of the buildings.

d) Planting does not provide a continuous canopy to the buildings (i.e. trees or shrubs should be isolated or located in small clusters).

e) Landscape species are chosen in consideration needs of the estimated size of the plant at maturity.

f) Species are avoided that have rough fibrous bark, or which keep/shed bark in long strips or retain dead material in their canopies.

g) Smooth bark species of tree are chosen which generally do not carry a fire up the bark into the crown.

h) Planting of deciduous species is avoided which may increase fuel at surface/ ground level (i.e. leaf litter).

i) Climbing species are avoided to walls and pergolas.

j) Combustible materials such as woodchips / mulch and flammable fuel are stored away from the buildings.

k) Combustible structures such as garden sheds, pergolas and materials such timber garden furniture are located way from the buildings.

60. Emergency and Evacuation Planning Assessment

Intent of measures: to provide suitable emergency and evacuation arrangements for occupants of SFPP developments.

A Bush Fire Emergency Management and Evacuation Plan shall be prepared for the school or the existing plan shall be updated to include the new building. The plan shall be prepared by a suitably qualified person and shall be consistent with the NSW RFS document: A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan.

Note: A copy of the Bush Fire Emergency Management and Evacuation Plan should be provided to the Local Emergency Management Committee for its information prior to occupation of the development.

- 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 4.17 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

Hornsby Development Control Plan 2013 Tree and Vegetation Preservation provisions have been developed under Council's authorities contained in *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* and the *Environmental Planning and Assessment Act 1979*.

In accordance with these provisions a person must not cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy the vegetation, lop or otherwise remove a substantial part of the trees or vegetation to which any such development control plan applies without the authority conferred by a development consent or a permit granted by Council.

Fines may be imposed for non-compliance with the *Hornsby Development Control Plan 2013*.

Note: 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).

Disability Discrimination Act

The applicant's attention is drawn to the existence of the *Disability Discrimination Act 1992*. 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 1992*. This is the sole responsibility of the applicant.

Covenants

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

Dial Before You Dig

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

Telecommunications Act 1997 (Commonwealth)

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

Asbestos Warning

Should asbestos or asbestos products be encountered during demolition or construction works, you are advised to seek advice and information prior to disturbing this material. It is recommended that a contractor holding an asbestos-handling permit (issued by *SafeWork 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.adfa.org.au

www.safework.nsw.gov.au

Alternatively, telephone the *SafeWork NSW* on 13 10 50.