

SYDNEY NORTH PLANNING PANEL - REPORT

Panel Reference	PPSSNH-179
DA Number	DA/1015/2020
LGA	Hornsby Shire Council
Proposed Development	The addition of first and second floor levels to an approved single storey cafeteria for use as a general maths and student hub
Street Address	Lot 100 DP 1262386, Barker College, No. 91 Pacific Highway, Hornsby
Applicant	David Porter
Owner	The Council of Barker College
Date of DA Lodgement	20 November 2020
Number of Submissions	Nil
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	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017 • State Environmental Planning Policy No.55 Remediation of Land • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (Koala Habitat Protection) 2020 • State Environmental Planning Policy No. 20 Hawkesbury-Nepean River • Hornsby Local Environmental Plan 2013 • Hornsby Development Control Plan 2013
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Locality Plan • Architectural Plans • Landscape Plan • Clause 4.6 Statement • Decision Statement • Heritage Impact Statement

	<ul style="list-style-type: none"> • Traffic & Parking Report • Arboricultural Impact Assessment • Parking Restrictions Plans
Report prepared by	Thomas Dales
Report date	26 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? **Yes**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

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)? **No**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

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

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

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

- The application involves the addition of first and second floor levels to an approved single storey cafeteria for use as a general maths and student hub. The proposal does not seek an increase in the number of students and staff imposed by Condition No. 60 of Development Application No. DA/1194/2016 (2,420 students and 339 full time staff).
- The proposal complies with the provisions of *State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017*.
- The proposal does not comply with Clause 4.3 of the Hornsby Local Environmental Plan 2013 with regard to the height of a building and the applicant has made a submission in accordance with Clause 4.6 'Exceptions to development standards' to vary the height standard. The submission is considered well founded and is supported.
- No public submissions have been received in respect of the application.
- It is recommended that the application be approved.

RECOMMENDATION

THAT Council assume the concurrence of the Secretary of the Department of Planning and Environment pursuant to Clause 4.6 of the *Hornsby Local Environmental Plan 2013* and approve Development Application No. DA/1015/2020 for the addition of first and second floor levels to an approved single storey cafeteria for use as a general maths and student hub at Lot 100 DP 1262386, No. 91 Pacific Highway Hornsby subject to the conditions of consent detailed in Schedule 1 of this report.

BACKGROUND

Barker College was founded by The Reverend Henry Plume at Kurrajong Heights in early 1890 with five pupils. The school was relocated to Hornsby in 1896 upon the completion of the '*Stokesleigh*' building housing 20 students. Since the 1920's, substantial additions and improvements have occurred on the campus.

On 13 July 2017, the Sydney North Planning Panel approved Development Application No. DA/1194/2016 for the demolition of the existing basketball courts and tennis courts and construction of a new Preparatory School, including a child care centre and an extension to the Junior School Copeland Building in two stages. Condition No. 60 of the consent caps student numbers at 2,420 and 339 full time staff. Subsequent modification applications have been approved by Council relating to tree removal and stormwater management.

Complying Development Certificate No. J170344 was issued on 31 August 2017 by a Principal Certifier for the demolition of four existing buildings and construction of a new sports and learning precinct to facilitate the Personal Development, Health and Physical Education (PDHPE) department with basement car parking. The approved building was completed in June 2020 and is known as the 'Rosewood Centre.'

On 19 March 2018, the three sites the subject of the development were consolidated with the adjoining allotments owned by Barker College, which house the existing Prep School buildings as well as residential dwellings into 1 registered lot.

On 30 July 2020, Barker College published and notified a Review of Environmental Factors (REF) for a proposed single storey student cafeteria development at the western end of The Avenue.

On 31 August 2020, a Decision Statement was prepared, and Council consulted in relation to the single storey student cafeteria development. The College advised that the proposed development is 'development permitted without consent' under the provisions of clause 36 of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP)*.

On 29 November 2020, Council held a pre-lodgement meeting (PL/71/2020) with Barker College representatives to discuss the merits of a future development application proposing the construction of two storeys above an *Education SEPP* permitted single storey cafeteria and classroom building located at the end of The Avenue.

APPLICATION HISTORY

On 22 December 2020, Council requested revisions to the preliminary Construction Management Plan (CMP) to address assessment considerations including construction traffic management, noise, waste management and car parking. On 18 January 2021, Council subsequently received the amended CMP (Revision D).

On 8 January 2021, Council requested additional information in the form of a 'proposal for parking restrictions' along Unwin Road to address concerns regarding the safe movement of construction vehicles during school pickup and drop-off times.

On 13 January 2021, the applicant submitted written justification seeking to avoid the submission of the requested 'proposal for parking restrictions' stating that there is no nexus for the request given that there is no increase in student or staff numbers proposed with the DA.

On 5 February 2021, Council requested revisions to the CMP with respect to traffic management and car parking. On 16 February 2021, Council received the requested revised CMP (Revision E).

SITE

The Barker College campus has an area of 14.53 Ha, and is bounded by the Pacific Highway, Unwin Road, Clarke Road and College Crescent. The school site falls from the Pacific Highway to the south to Clarke Road, with an average grade of 7.5%

Barker College comprises a Junior School, Middle School and Senior School with a variety of school buildings, playing fields and other school facilities. The existing Junior School is located at the southern end of the campus and is accessed from College Crescent and Clarke Road. The Middle and Senior School buildings are located towards the northern end of the campus. They are accessed from the Pacific Highway, College Crescent and The Avenue.

The proposed development would be located at the western end of The Avenue (a private road owned and controlled by the school). It is currently occupied by two tennis courts that double as cricket practice wickets and a demountable classroom building.

Adjoining the development site to the west is the Phipps sports playing field and to the south are the Rosewood sports playing fields. The Rosewood Centre (car park and multi-use sports hall) is located to the east of the development site. An assortment of school buildings is located to the north, north-east

and north-west of the development site (including the R.E Kefford Building and the McCaskill Music Centre). Various walking paths, managed grass areas, scattered trees and garden areas are located throughout the school campus.

To the west of the school campus, along College Crescent is high-density residential development, and to the west of these units is the main Northern Railway Line. To the north of the school campus, across Pacific Highway, is a mix of industrial and commercial uses including numerous vehicle showrooms. To the east of the school campus, on the opposite side of Unwin Road is the Blue Gum Tavern and associated at grade car park. Further south along Unwin Road is low to medium-density residential development. Directly south of the school campus, across Clarke Road is the former Prep School and low-density residential development.

Council's 2010 flood maps identify that the south-western portion of the site is subject to a 1 in 100-year ARI overland flow path.

Blue Gum Shale Forest is located to the northern portion of the site which is listed as Endangered Ecological Community under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1995* and a Critically Endangered Ecological Community under the NSW *Biodiversity Conservation Act 2016*.

Barker College is heritage listed with local listings for buildings (Item Nos. 465 - Barker College Junior school, 782, and 501) and the grounds (Item No. 501 – landscape).

The site is within the Barker College Heritage Conservation Area (C1) under the provisions of Schedule 5 (Environmental Heritage) of the *Hornsby Local Environmental Plan 2013 (HLEP)*.

PROPOSAL

The application proposes the addition of first and second floor levels to an approved single storey cafeteria for use as a general maths and student hub.

The proposed maths and student hub facility is intended to replace and supplement existing maths facilities on the site. The proposal does not seek an increase in the number of students and staff imposed by Condition No. 60 of Development Application No. DA/1194/2016 (2,420 students and 339 full time staff).

In summary, the proposed development consists of:

- The construction of the first-floor level comprising a student learning room, informal learning areas, staff offices and facilities, student amenities, two stairwells, lift access, storage room and an elevated walkway;
- The construction of the second-floor level containing student learning rooms, student amenities, staff common rooms and facilities, two stairwells, lift access and storage room;
- Construction of a metal deck roof above the second-floor level with a 2-degree slope and rooftop plant equipment and screening above; and
- The provision of a temporary 20m(l) x 10m(w) x 5m(h) pedestrian management bridge along The Avenue to facilitate the safe movement of pedestrians while construction vehicles are active on the site.

Site preparation and/or construction works for the single storey cafeteria have not commenced. Should the subject application be approved, it is proposed that the three levels would be constructed concurrently.

Demolition works, and the removal of trees and vegetation is not been proposed as part of this application.

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.

Part 3 of the strategy relates to "Infrastructure and Collaboration" and a key objective is to provide services and infrastructure to meet communities' changing needs. The strategy anticipates that an extra 270,000 students will need to be accommodated in Greater Sydney by 2036. Although the proposal would not increase the student capacity of Barker College, the proposed development would provide additional infrastructure that is capable of supporting an increase in student population in the future.

The North District Plan provides a 20-year plan to manage growth and achieve the 40-year vision, while enhancing Greater Sydney's liveability, productivity and sustainability into the future. It is a guide for implementing A Metropolis of Three Cities - the Greater Sydney Region Plan at a District level and is a bridge between regional and local planning. Hornsby Shire has been grouped with Hunters Hill, Kuring-gai, Lane Cove, Mosman, North Sydney, Ryde, Northern Beaches and Willoughby to form the North District.

Over the 20 years to 2036, projections show an expected increase of children and the need for increased educational facilities. The proposed development would be consistent with the objectives of the strategy by providing additional infrastructure capable of supporting 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 zoned R2 Low Density Residential under the *HLEP*. The objectives of the R2 zone are:

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

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

The proposed development would provide for educational facilities for the current and future college population, thereby providing an educational service to meet the day to day needs of the local residents and the school community.

The proposal is consistent with the objectives of the zone.

2.1.2 Height of Buildings

Clause 4.3 of the *HLEP* provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 8.5m. The proposed development would achieve a maximum building height of 14.5m (including plant) and does not comply with this provision.

Note: The HLEP defines ‘building height’ as the vertical distance from ground level (existing) 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.

2.1.3 Exceptions to Development Standards

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

The proposed building has a maximum height of 14.5m (including plant) above natural ground level which exceeds the 8.5 metre maximum building height prescribed under Clause 4.3 Height of Buildings stipulated under the *HLEP*. The objective of the Height of Buildings control is to permit building heights that are appropriate for the site constraints, development potential and infrastructure capacity of the locality.

The applicant has made a submission in support of a variation to the development standard in accordance with Clause 4.6 of the *HLEP*. The development application seeks to vary the development standard by 6m, representing a 52% variation to the development standard.

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 *Wehba 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 applicant states the proposed variation is considered to be consistent with the objectives of the control and is justified as follows:

- *The 8.5m development standard, adopted for the Hornsby R2 zone, reflects the building height typically applied to low density residential development and is not appropriate to an institutional building within a large campus setting.*
- *The scale of buildings across the campus varies considerably from 1-5 storeys and the proposed 3-storey maths and student Hub is designed to be consistent with the institutional scale of the educational buildings already constructed around The Avenue.*
- *The Design Statement, prepared by Architectus, at pages 12 and 13, provides a context overview of the site including a comparison of surrounding building heights. Three diagrammatic site sections are provided, comparing the scale of the proposed building with the scale of the educational buildings already constructed around The Avenue. The analysis shows that the proposed development is consistent with the heights of the surrounding buildings, both in terms of maximum RLs and number of storeys.*
- *It is noted that the Education SEPP permits as complying development school buildings up to 22m in height as acceptable building heights for educational establishments (refer to clause 3 of schedule 2 of the Education SEPP) including those in R2 low density residential zones.*
- *The proposed building height is appropriate to the site constraints and the development potential and infrastructure capacity of the locality. The proposal in fact contributes to the infrastructure capacity by providing an upgrade to the existing school facilities to meet the needs of the school population.*
- *Despite breaching the building height development standard, the central location of the proposed development within the context of the broader school campus, eliminates overshadowing, privacy and visual impacts for the neighbouring properties. The closest residential dwellings are over 160m away.*
- *There are no public views available over the site or adjacent properties that will be impacted by the proposed development.*
- *The proposal provides for an appropriate transition between the contemporary design of the Rosewood Centre and the heritage buildings on the school site. The proposed development complements the range and form of buildings within the school campus. The bulk and scale of the proposal is consistent with the desired character of the locality and provides an intensity of development that is commensurate with the existing and planned infrastructure.*
- *The integrated site landscape regime (approved with the ground level Cafeteria development) will soften and screen the building when viewed from within the site. The proposal will have limited visibility from outside the site.*
- *The building height will not give rise to any inappropriate or jarring visual impacts, when compared to the built form characteristics of existing development within the school.*

- *The sloping topography of the whole school campus ensures the height of the proposed development is consistent with the levels of the heritage buildings to the north, allowing for views to heritage items to be maintained.*
- *The building is well modulated with form and scale compatible with the existing topography. There will be no streetscape impacts. The proposal will not be visually dominant when viewed from outside of the site.*
- *The height, bulk, scale and roof form proposed are entirely consistent with the built form characteristics established by the adjoining Rosewood Centre and development generally within the site's visual catchment.*
- *The proposed development has been designed to reduce the effects of bulk and scale with the use of highly articulated facades which avoid a bulky appearance. The use of elements such as offsets, modulation, landscaping and varied materials and colours, all contribute to minimising building bulk.*
- *Sufficient environmental planning grounds exist to justify the building height variation namely the provision of a three storey building reduces site coverage, increases landscaped area and allows for better efficiencies in building sustainability.*
- *The proposed development is consistent with the objective of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.*
- *The consent authority can be satisfied that the proposed development will be in the public interest if the standard is varied because it is consistent with the objectives of the standard and the objectives of the zone.*

Particular attention has recently been placed on the caselaw established in *Four2Five Pty Ltd v Ashfield Council* [2015] which underlined that consent authorities must be directly satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3) of Clause 4.6, that is compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant's submission to vary the 'height of buildings' development standard is considered well founded for the following reasons:

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

The objective of Clause 4.3 'Height of Buildings' of the *HLEP* is "to permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality".

Council's assessment considers that the proposed building height and bulk and scale is comparable to existing development on the site. In particular, the proposed development would achieve a similar bulk and scale to the three storey 'Rosewood Centre' located approximately 25m east of the proposed development. It is noted that the *Education SEPP* permits as complying development school buildings up to 22m in height for educational establishments in R2 low density residential zones. The height of the proposed building complies with the height control contained within Schedule 2 of the *Education SEPP*.

The three storey development is located within the central portion of the site and seeks to make use of the limited available space. Given the substantial distance (approx. 160m) to adjoining properties, it is considered that the three storey built form would not pose a detrimental impact to adjoining properties with regard to bulk and scale, privacy, overshadowing and amenity. In addition, the proposed three storey development would have a reduced building footprint when compared to an 8.5m high two storey development, resulting in an overall increase in outdoor play space and landscaped area on the site.

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 alterations of existing electricity, sewerage or drainage systems and would not necessitate additional car parking on-site.

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 zoning of the land is unreasonable or inappropriate

Educational establishments are permissible with development consent within the R2 zone and is a prescribed zone specifically listed in Section 33 of the *Education SEPP*. It is therefore considered that the zoning of the site is appropriate given the exiting use of the site for a school.

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 (*Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 [60]*).

The proponent has outlined that sufficient environmental planning grounds exist to justify the building height variation, namely the provision of a three storey building reduces site coverage, increases landscaped area and allows for better efficiencies in building sustainability. It is also stated that the central location of the proposed development within the context of the broader school campus, eliminates overshadowing, privacy and visual impacts for the neighbouring properties. With respect to landscaping, the applicant has indicated that the proposed landscaping will soften and screen the building when viewed from within the site and that the proposal will have limited visibility from outside the site.

Further, the applicant suggests that there are no public views available over the site or adjacent properties that will be impacted by the proposed development and that the sloping topography of the campus ensures the height of the proposed development is consistent with the roof ridge levels of the heritage buildings to the north, allowing for views to heritage items to be maintained.

Council's review of the environmental planning grounds presented by the applicant raises no points of contention, and it is considered that the three storey built form is justified having regard to the circumstances of the site and existing built form. Council is 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.

Based on this assessment, it is considered that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case. Accordingly, the Clause 4.6 submission is supported.

2.1.4 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Council. The property, Barker College is heritage listed with local listings for buildings (Item Nos. 465 - 1955 War Memorial Junior School, 782, and 501) and the grounds (Item No.501 - landscape) under the provisions of Schedule 5 (Environmental Heritage) of the *HLEP*.

Barker College is within the Barker College Heritage Conservation Area (C1) and is in the vicinity of heritage item No. 779, Nos. 27-31 Clarke Road, Hornsby under Schedule 5 (Environmental Heritage) of the *HLEP*.

The application has been supported by a Heritage Impact Statement prepared by NBRS Architecture dated November 2020.

The following is an assessment with regard to the Heritage requirements of the *HLEP* and *Hornsby Development Control Plan 2013 (HDCP)*.

Part 9 of the *HDCP* provides guidelines for development in the vicinity of heritage items and within Heritage Conservation Areas (HCAs). Notwithstanding, Clause 35(9) of *State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017 (Education SEPP)* states that a provision of a development control plan that specifies a requirement, standard or control in relation to development for the purposes of a school within a prescribed zone is of no effect, regardless of when the development control plan was made.

The provisions of clause 35(6) of the *Education SEPP* require that the design quality principles under Schedule 4 be used to guide school development. Section 2.2.2 of this report addresses the built form of the proposal including a discussion with regard to heritage conservation.

2.1.5 Earthworks

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

The scope of the proposal relates to the addition of two additional storeys to the approved single storey cafeteria building. Given that the works in their entirety would be located above the existing ground level, earthworks would not be required to facilitate the proposed development.

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

2.2 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. An assessment against relevant sections of the *Education SEPP* is provided below.

2.2.1 Clause 36 - Development Permitted Without Consent

Clause 36 of the *Education SEPP* makes provision for specified development that may be carried out without the need for development consent. Clause 36 is excerpted as follows:

Development for any of the following purposes may be carried out by or on behalf of a public authority without development consent on land within the boundaries of an existing school:

- (a) *construction, operation or maintenance, more than 5 metres from any property boundary with land in a residential zone and more than 1 metre from any property boundary with land in any other zone, of:*
 - (i) *a library or an administration building that is not more than 1 storey high, or*
 - (ii) *a portable classroom (including a modular or prefabricated classroom) that is not more than 1 storey high, or*
 - (iii) *a permanent classroom that is not more than 1 storey high to replace an existing portable classroom and that is used for substantially the same purpose as the portable classroom, or*
 - (iv) *a kiosk, cafeteria or bookshop for students and staff that is not more than 1 storey high, or*
 - (v) *a car park that is not more than 1 storey high,*

Barker College has published and notified a Review of Environmental Factors (REF) for a single storey student cafeteria development at the western end of The Avenue. An associated Decision Statement has also been prepared advising that the cafeteria is 'development permitted without consent' under the provisions of clause 36 of the *Education SEPP*.

It is considered that Division 4.1 of *Environmental Planning and Assessment Act 1979 (EP&A Act)* sets out distinct and separate, but not mutually exclusive planning approval pathways (exempt development, development consent and Complying Development Certificate). Accordingly, it is permissible under the *EP&A Act* to pursue a strategy that relies upon two separate approval pathways concurrently, albeit for different levels of the same building.

Given that the application proposes to construct the entire development (cafeteria and the proposed upper two floors) simultaneously, conditions have been recommended under Schedule 1 requiring:

- That the construction of all three levels occur concurrently; and
- That the REF be modified, and an alteration of the determination made under the *NSW Code of Practice for Part 5 activities for registered nongovernment schools* (August 2017) for the issuing of a further Decision Statement.

2.2.2 Schedule 4 - Design Quality Principles

Development for the purpose of a school is permissible with consent within the subject R2 Zone pursuant to Clause 35(1) of the *Education SEPP*.

Clause 35(6) of the *Education SEPP* requires the consent authority to consider the design quality of the development in accordance with Schedule 4. A discussion is provided below in regard to the requirements of Schedule 4.

Schedule 4 Schools - Design Quality Principles	
Design Principle	Council Comment
Principle 1 - context, built form and landscape	<p>The plans and Heritage Impact statement (HIS) submitted with the application demonstrate that the location and impact of the proposed contemporary additional levels on the approved Cafeteria building, would have minimal heritage impacts due to the location of the new building in an area previously redeveloped in the late 20th century and early 21st century. The proposed new building will be comparable in scale with the later buildings, particularly the newly completed multi use sports hall (Rosewood Centre) adjacent and is separated from the main heritage listed buildings on the site. The visual impact of the new buildings on the landscaped grounds would be reduced through the retention of existing significant trees and proposed landscaping.</p> <p>Overall, the new levels above the cafeteria building are of a comparable scale to the recently built Rosewood Centre. In addition, the design and timber material on the exterior is of a sympathetic appearance to the setting in the landscaped grounds.</p>
Principle 2 - sustainable, efficient and durable	<p>The proposed development has been designed to incorporate several energy efficiency and sustainability initiatives as outlined in the submitted Design Statement Report. Design measures include sun shading screens, solar shading fins and mixed-mode ventilation which would provide a high level of air quality and will improve energy efficiency.</p>
Principle 3 - accessible and inclusive	<p>The proposed development has been designed to provide safe access for all persons including those with a physical disability. An Access Report has been prepared in support of the proposed development which demonstrates that the proposal would meet the relevant performance requirements of the <i>Disability (Access to Premises-Buildings) Standards 2010</i> and the <i>Building Code of Australia (BCA)</i>.</p>

	In addition, the proposed first and second floor levels include the provision of open-planned learning hubs for the informal gathering and education of students.
Principle 4 - health and safety	<p>The proposal would not result in earthworks and no health or contamination concerns are raised in this regard. It is noted that the proposed development will increase the range of facilities available for students and staff.</p> <p>In addition, Crime Prevention Through Environmental Design measures have been incorporated into the design and will be part of the management of the development to ensure a high level of safety and security is upheld for students and staff.</p>
Principle 5 - amenity	<p>The proposed development represents a teaching and learning facility that connects to space for eating, dining, socialising, learning, staff and meeting facilities.</p> <p>The proposed development is a substantial distance from neighbouring properties and will have no foreseen amenity impacts on the local neighbourhood.</p> <p>The proposed development incorporates indoor and outdoor spaces. The design and colour scheme will allow access to sunlight and natural ventilation.</p> <p>Storage areas and amenities are included in the design.</p>
Principle 6 - whole of life, flexible and adaptive	The proposed development represents a large, adaptable building providing flexibility and capability for adaptation to cater to various school uses.
Principle 7 - aesthetics	<p>The development is considered a vibrant space which provides students with contemporary teaching and learning facilities, meeting and staff administration areas. Light colours and finishes will enhance the layout, brightening and reflecting natural light.</p> <p>The application has indicated that the external colour palette is inspired by the school logo. Council's assessment considers the colour scheme to be sympathetic to the surrounding landscape and buildings.</p> <p>The proposed development represents an adaptable, multi-purpose facility fit for modern educational use. The proposed development combines a mix of formal and informal areas.</p> <p>In addition, Council's heritage assessment raises no concerns with the aesthetics of the building.</p>

In summary, Council has assessed the development against the requirements of Schedule 4 and considers the proposal satisfactory. Additionally, in respect to Clause 35(6)(b), the development enables the use of school facilities (including recreational facilities) to be shared with the community.

2.2.3 Schedule 2 - Complying Development

Whilst the proposal was not lodged as a complying development, an assessment against the relevant complying development standards for educational establishments has been undertaken as a guideline for the assessment of the proposal. The following table sets out the proposal's compliance with relevant standards as described within Schedule 2 of the *Education SEPP*.

Schedule 2 - Complying Development Standards		
Control	Proposal	Compliance
Building Height The building height of a building (whether a new building, or an existing building as a result of an addition or alteration): (a) must not exceed 4 storeys, and (b) must not exceed 22m from ground level (mean).	Three storeys 14.5m in height	Yes
Setbacks A building (whether a new building, or an existing building as a result of an addition or alteration) or any part of a building (including a basement or any other part of a building that is constructed below ground): b) that is more than 12m but less than 15m in height - must be located more than 8m from any side or rear property boundary with land in a residential zone or more than 2.5m from any side or rear property boundary with land in an industrial or a business zone	The proposed development would be located greater than 8m from any side or rear boundary	Yes
Design and Materials A new building or an alteration or addition to an existing building must comply with the following: a) any new external walls or roof of the building must be constructed of non-reflective material, b) any external walls of the building that face a public road or reserve must contain windows.	Non-reflective materials The building does not face a public road or reserve and includes windows on all elevations	Yes
Overshadowing A new building or an alteration or addition to an existing building must not overshadow any adjoining residential accommodation so that solar access to any habitable room or principal private open space on the adjoining property: a) is reduced to less than 3 hours of solar access between 9:00 am and 3:00 pm at the winter solstice, or	The development would not overshadow adjacent development	Yes

b) is reduced in any manner if solar access to any habitable room on the adjoining property is already less than 3 hours		
Privacy A window in a new building, or a new window in any alteration or addition to an existing building, must have a privacy screen for any part of the window that is less than 1.5m above finished floor level if: <ul style="list-style-type: none"> a) the finished floor level is more than 1.5m above ground level (mean), and b) the window faces a building used for residential accommodation on an adjoining lot, and c) the wall in which the window is located has a setback of less than 5m from the boundary of that adjoining lot. 	Yes Yes (>170m building separation) No	No privacy screen required

As detailed in the above table, the proposed development would comply with the abovementioned standards of the *Education SEPP*.

In summary, the development has been assessed to meet the overall aims of the *Education SEPP* and is considered acceptable.

2.3 State Environmental Planning Policy No. 55 Remediation of Land

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

Historical information and an inspection of the site and surrounding areas indicate that the site has been predominantly used for educational purposes, with residential landuses also previously present on the site. The development site is currently occupied by two tennis courts that double as cricket practise wickets and a demountable classroom building. It is intended to construct the approved single storey cafeteria building at this location.

As the proposed development would not necessitate earthworks and would be located to the upper two levels of a three-storey building, Council is satisfied that the proposal complies with the provisions of Clause 7 of *SEPP 55*.

2.4 State Environmental Planning Policy (Infrastructure) 2007

The application has been assessed against the requirements of *State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)*. The development is not categorised as a 'traffic generating development' in accordance with Clause 104 and Schedule 3 of the *ISEPP* as the proposal would not result in an increase in the current student numbers of the school.

Notwithstanding, the application was referred to *Transport for NSW (TfNSW)* for general comment and consideration. TfNSW reviewed the application and raised no objections indicating that the proposal would not impact upon the classified road network along Pacific Highway.

2.5 State Environmental Planning Policy (Koala Habitat Protection) 2020

State Environmental Planning Policy (Koala Habitat Protection) 2020 (KHP SEPP) commenced 30 November 2020 and applies to the Hornsby Shire. The aim of the policy is to encourage the conservation and management of areas of that contain natural vegetation that provide habitat for koalas.

As the site is more than 1 hectare in size, Clause 9 of the *KHP SEPP* applies which stipulates:

- (1) *Before a council may grant consent to a development application for consent to carry out development on land to which this Part applies that it is satisfied is a potential koala habitat, it must satisfy itself as to whether or not the land is a core koala habitat.*
- (2) *The council may be satisfied as to whether or not land is a core koala habitat only on information obtained by it, or by the applicant, from a person with appropriate qualifications and experience in biological science and fauna survey and management.*
- (3) *If the council is satisfied:*
 - (a) *that the land is not a core koala habitat, it is not prevented, because of this Policy, from granting consent to the development application, or*
 - (b) *that the land is a core koala habitat, it must comply with clause 10.*

In response to Clause 9, the application proposes to prune the canopy of four trees to facilitate the construction works, identified as tree Nos. 508 (*Celery Wood*), 509 (*Small-Leaved Fig*), 511 (*Rough-Barked Apple Myrtle*) and 907 (*Blueberry Ash*) in the submitted Arboricultural Impact Assessment prepared by ArborSafe. The proposal would not necessitate the removal of vegetation identified as Feed Tree Species under Schedule 2 of the *KHP SEPP*.

Accordingly, Council is satisfied that the proposal meets the requirements of the *KHP SEPP* and consent may be granted to the development.

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

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

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

2.7 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.

In addition, Clause 35(9) of *Education SEPP* states that a provision of a development control plan that specifies a requirement, standard or control in relation to development for the purposes of a school within a prescribed zone is of no effect, regardless of when the development control plan was made.

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)*. The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

HDCP - Part 7.1 Community Uses			
Control	Proposal	Requirement	Complies
Building Height	14.5m	8.5m	No
No. storeys	3 storeys	max. 2 + attic	No
Setbacks			
- Pacific Highway (north)	69m - 132m	6m	Yes
- College Crescent (west)	192m	6m	Yes
- Unwin Road (east)	153m	6m	Yes
- Clarke Road (south)	192m	6m	Yes
Site Coverage	20%	max. 30%	Yes
Landscaped Area (% of lot size)	52%	min. 45%	Yes

As detailed in the above table, the proposed development complies with the above prescriptive requirements within the *HDCP*, with the exception of the building height and number of storeys. A brief discussion on compliance with relevant performance requirements and Part 1C General Controls is provided below.

2.8.1 Scale

As discussed previously in this report, the height of the development exceeds the 8.5m building height requirement. The height of the three-storey building would be 14.5m. The proposed building would be lesser in height than the adjacent Rosewood Centre and would not pose a detrimental impact to the heritage significance of the heritage listed items on the site or the HCA.

The scale, form, character of the development is considered acceptable for its intended use and relates to the sites constraints.

2.8.2 Landscaping

A detailed landscape strategy and landscape plan were prepared as part of the approval for the single storey cafeteria. Offset planting and additional planting were also approved with the cafeteria.

It is considered that the proposed development would complement the approved landscaping and no additional landscaping is required to improve the development. More broadly, it is assessed that 52% of the site would be landscaped which meets the *HDGP* requirement for a minimum of 45% landscaping on the site.

2.8.3 Privacy, Security and Sunlight

The proposed development is located within the existing school grounds and is set well back from private residential boundaries. The closest residential properties are the existing dwellings located on the eastern side of Unwin Road. The shadow diagrams indicate the shadows cast by the proposed buildings would fall within the school grounds. In addition, the proposed development would have no adverse impact on the privacy of adjoining residential properties.

The approved breezeway on the ground floor level would provide safe, clear and direct pedestrian entry to the building from The Avenue. The windows and the entrance areas are orientated towards The Avenue, school buildings and playing fields on the campus. It is considered that the development would provide high levels of security.

The proposed development would meet the *HDGP* desired outcome for privacy, security and sunlight.

2.8.4 Tree and Vegetation Preservation

The application has been supported by an Arboricultural Impact Assessment prepared by ArborSafe dated 23 October 2020.

As the footprint of the structure has been established as part of the approved cafeteria development, the subject development proposal does not necessitate the removal of any trees or vegetation to facilitate the works.

Notwithstanding, the submitted Arboricultural Impact Assessment indicates that the proposed development would require canopy pruning of four trees to facilitate the construction works, identified as tree Nos. 508 (*Celery Wood*), 509 (*Small-Leaved Fig*), 511 (*Rough-Barked Apple Myrtle*) and 907 (*Blueberry Ash*). Tree Nos. 508, 509 and 907 would require targeted pruning to a maximum of 10% of the canopy pursuant to *Australian Standard AS4373-2007 Pruning of amenity trees* to facilitate the elevated walkway. Tree No. 511 would require a maximum pruning of 30% of the canopy and removal of a low-lying branch to the western aspect to facilitate the proposed development.

The Arboricultural Impact Assessment advises that the foundations of the proposed permanent elevated walkway would be located within the Tree Protection Zone (TPZ) of tree Nos. 506, 508, 509, 511 and 907. Council's tree assessment concurs with the report and has determined that all trees proposed to be retained on the site would be successfully retained subject to protection measures during construction.

Council's tree assessment raises no concerns to the proposed development, subject to recommended conditions under Schedule 1 requiring the appointment of a project arborist to oversee pruning of the canopy, installation of tree protection fencing and works within the TPZ of trees to be retained.

2.8.5 Stormwater Management

The application proposes to merge the stormwater system approved as part of the cafeteria development to the proposed development. The development would utilise an on-site stormwater detention system and connect to Council's stormwater system along College Crescent via the existing stormwater infrastructure on the site.

Council's stormwater assessment raises no concerns to the proposed method of stormwater management, subject to conditions recommended under Schedule 1 with regard to water quality treatment and on-site detention.

2.8.6 Transport and Parking

The application has been supported by a Traffic and Parking Report prepared by TEF Consulting.

On-site Parking

The *HDCP* has a parking requirement of 1 space per full time teacher, 1 space per 2 students of driving age for educational establishments.

The proposal does not seek an increase in the number of students and staff imposed by Condition No. 60 of Development Application No. DA/1194/2016 (2,420 students and 339 full time staff). Accordingly, it is anticipated the development would not increase the demand for on-site car parking and is considered acceptable in this regard.

Traffic Generation and Safety

It is noted that the submitted Traffic and Parking Report indicates the following:

"The new M&SH facility is intended to augment and enhance existing teaching facilities that are of a lower standard. The proposal does not seek an increase in the number of students and staff set by Condition 60 of DA/1194/2016. Consequentially, the existing trip generation to and from Barker College will remain the same after the M&SH project. Drop-off and pick-up locations for students will not change. There will be no change to trip distribution patterns on the road network".

Council's traffic assessment acknowledges that whilst the application does not seek an increase in the number of staff or students, safety concerns are raised due to frequent construction vehicle movements along Unwin Road as a means of accessing the construction site adjacent to The Avenue. Unwin Road is a narrow (8.6m-9.3m wide) local street that intersects The Avenue and provides exclusive and direct vehicular access for construction vehicles accessing the construction site. An inspection of historical aerial photography, an inspection of the site and a review of the historical Council records revealed on-street parking along both sides of Unwin Road is typically unavailable during school pickup and drop-off times.

Despite its classification as a two-way street, Unwin Road effectively restricts two-way vehicle movements during pickup and drop-off times by virtue of its narrow width and the parking of vehicles on either side.

It is considered that the existing on-street parking arrangement in conjunction with the narrow width of Unwin Road presents a safety concern to school children, staff and community members whilst construction vehicles are accessing the site during pickup and drop-off times. Council is of the opinion that a nexus exists between the requirement for construction vehicles to safely access Unwin Road and the need to improve the safety and fluidity of vehicle movements along Unwin Road during pickup and drop-off times. To ensure the safe movement of construction vehicles during pickup and drop-off times,

Council's traffic assessment has recommended the imposition of a condition requiring the implementation of parking restrictions between 8am-9am and between 2pm-4pm on School days along Unwin Road (western side) between Pacific Highway and Clarke Road.

Despite the nexus, the benefits of the recommended parking restrictions would be twofold whereby the parking restrictions along Unwin Road would also address longstanding traffic and safety concerns of the community and Council alike.

Council's assessment of the traffic impacts of the development concludes that the proposed development is acceptable, subject to conditions.

2.8.7 Accessible Design

The application has been supported by a Disability Access Report prepared by Cheung Access dated 29 October 2020. The application proposes a continuous path of travel and incorporates accessible toilets and a lift between floors.

The report confirms that the proposed development complies with the performance requirements of the *Disability (Access to Premises-Buildings) Standards 2010* and Part D3, E3.6 and F2.4 of the *Building Code of Australia (BCA)* through a combination of the deemed-to-satisfy provisions and performance requirements.

Council's assessment concurs with the conclusions of the Disability Access Report. To ensure that the conclusions of the report are fulfilled, a condition has been recommended under Schedule 1 requiring that the development comply with the requirements of Part 3.1 of the Disability Access Report.

2.8.8 Waste Management

Barker College has an established campus waste collection, recycling and storage practice whereby all waste management is centrally managed. The proposal will be serviced by this established waste management program located in the basement of the adjoining Rosewood Centre.

With regard to construction waste, Part 1C.2.3 of the *HDCP* notes that a waste management plan should be prepared and submitted with development applications in accordance with Council's guidelines. A waste management plan prepared by Bingo Industries is included in the application detailing anticipated waste, objectives, mitigation measures and actions. Council considers that the submitted waste management plan meets the desired outcomes of Part 1C.2.3 of the *HDCP* and is considered acceptable.

A condition of consent is recommended requiring the waste management plan be adhered to throughout the duration of works.

2.8.9 Noise and Vibration

The closest residential properties are located approximately 160m to the east along Unwin Road. The central location of the proposal within the school campus would ensure that the proposed development would not pose detrimental noise impacts to the occupants of surrounding residential dwellings during operation.

To ensure that noise generated from construction vehicles and construction works are attenuated, conditions have been recommended under Schedule 1 requiring that the submitted CMP include a Construction Noise and Vibration Management Plan (CNMP) and that the level of noise emanating from the operation of all plant not exceed the background level by more than 5dB(A) when measured at all property boundaries.

2.8.10 Flooding

Council's 2010 flood maps identify that the south-western portion of the site is subject to a 1 in 100 year ARI storm event.

The *HDCP* provides that an overland flow path should not be built upon and should be maintained for a 1 in 100 year average recurrence interval (ARI) flood. The proposed works would be located outside the mapped overland flow path and at substantially higher elevation.

Council is satisfied that the proposal would not impact upon the overland flow path and is considered acceptable with regard to the provisions of Part 1C.3.2 of the *HDCP*.

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 Social Impacts

The proposed development would make a positive social contribution to the local community by providing a modern educational establishment with improved facilities to service the needs of the school community.

3.2 Economic Impacts

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

3.3 Construction Management

The application has been supported by a Construction Management Plan (CMP) (Revision E) prepared by EPM Projects and a Preliminary Construction Traffic Management Plan (CTMP) prepared by TEF Consulting.

The CMP specifies the requirements to be established, monitored and maintained on-site during any construction activities relating to the development and provides recommendations with respect to site safety, hours of operation, maintenance of Council assets, dilapidation reports, noise and waste management. Conditions have been recommended under Schedule 1 including that a Dilapidation Report be undertaken in accordance with the recommendations of the CMP and that the CMP be complied with for the duration of works.

The CMP defers commentary with regard to traffic management to the submitted CTMP. The CTMP confirms that construction vehicle access to the development site would be exclusively from The Avenue via Unwin Road. Council's assessment raises no concern to the vehicle access point, subject to the imposition of parking restrictions along Unwin Road as previously discussed.

In addition, the CTMP recommends the provision of a temporary 20m(l) x 10m(w) x 5m(h) pedestrian management bridge along The Avenue to facilitate the safe movement of pedestrians in a north-south direction while construction vehicles are active on the site. To ensure that the temporary pedestrian management bridge is constructed to a standard suitable for use by school children and staff, a condition has been recommended that certification be provided by a chartered structural engineer confirming the structural integrity of the structure.

4. SITE SUITABILITY

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

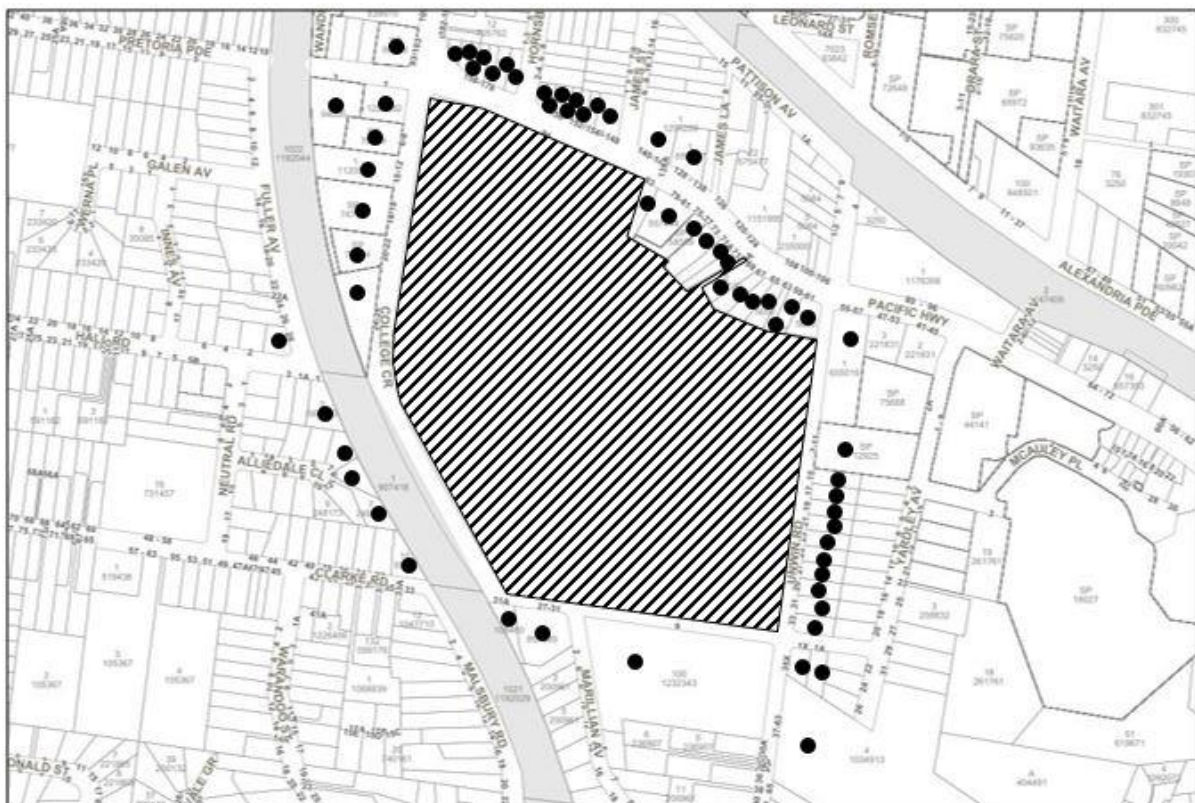
The subject site has not been identified as bushfire prone. The proposed development would be located clear of the mapped 1 in 100-year ARI overland flow path. The site is considered to be capable of accommodating the proposed development. The scale of the proposed development is consistent with the capability of the site and is considered acceptable.

5. PUBLIC PARTICIPATION


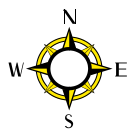
Section 4.15(1)(d) of the Act requires Council to consider *“any submissions made in accordance with this Act”*.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 26 November 2020 and 18 December 2020 in accordance with the Hornsby Community Participation Plan. During this period, Council did not receive any submissions. The map below illustrates the location of those nearby properties directly notified of the proposed development.



NOTIFICATION PLAN

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

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

5.2.1 Transport for NSW

The application was referred to *Transport for NSW (TfNSW)* for comment. *TfNSW* reviewed the application and raised no objections. No conditions were provided by *TfNSW* with regard to the proposed development.

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.

CONCLUSION

The application proposes the addition of first and second floor levels to an approved single storey cafeteria for use as a general maths and student hub.

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*. It is considered that the proposed development would not result in any unreasonable impacts and is suitable for the site. Council received no submissions during the public notification period.

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 *State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017*.
- 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 adjoining development with regard to visual bulk, overshadowing, solar access, amenity, privacy, heritage conservation and traffic management, subject to conditions.

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
DA0101, Issue A	Locality Plan	Architectus	23.10.20	
DA0401, Issue B	Site Plan	Architectus	23.10.20	
DA1002, Issue B	General Arrangement Plan - Level 02	Architectus	23.10.20	
DA1003, Issue B	General Arrangement Plan – Level 03	Architectus	23.10.20	
DA1004, Issue B	Roof Plan	Architectus	23.10.20	
DA2001, Issue C	Building Section 1	Architectus	18.11.20	
DA2002, Issue C	Building Section 2	Architectus	18.11.20	
DA2003, Issue C	Building Section 3	Architectus	18.11.20	
DA3001, Issue C	Building Elevations 1 & 2	Architectus	18.11.20	
DA3002, Issue C	Building Elevations 3 & 4	Architectus	18.11.20	
DA9001, Issue A	Internal Finishes	Architectus	23.10.20	

Plan No.	Plan Title	Drawn by	Dated	Council Reference
DA9002, Issue A	External Finishes	Architectus	23.10.20	
Issue C	Landscape Plan	Arcadia	19.06.20	
20123_DA_SE01, Rev 06	Sediment & Erosion Control Plan	Henry & Hymas	11.1.21	
Sheet 1 of 3	Proposed Parking Restrictions - Plan 1	Hornsby Shire Council	20.1.21	
Sheet 2 of 3	Proposed Parking Restrictions - Plan 2	Hornsby Shire Council	20.1.21	
Sheet 3 of 3	Proposed Parking Restrictions - Plan 3	Hornsby Shire Council	20.1.21	

Supporting Documents

Document Title	Prepared by	Dated	Council Reference
Construction Management Plan (Revision E)	EPM Projects Pty Ltd	11.02.21	D08106165
Preliminary Construction Traffic Management Plan	TEF Consulting	11.02.21	D08106161
Arboricultural Impact Assessment	ArborSafe	23.10.20	D08057007
Disability Access Report	Cheung Access	29.10.20	D08057005
Waste Management Plan	Bingo Industries	8.11.20	D08057003

2. Cafeteria Approval

The single storey cafeteria building located at the ground floor level beneath the approved upper floor additions is not subject to approval under this consent.

3. Hybrid Approval Strategy

The single storey cafeteria approved in accordance with the Review of Environmental Factors (REF) prepared by D.M Planning Pty Ltd dated July 2020 and the Decision Statement prepared by Barker College dated 31 August 2020 must be constructed concurrently with the approved upper two floor levels subject to this consent.

Note: The REF and Decision Statement is exhibited on the Barker College website at <https://www.barker.college/about-barker/our-master-plan>

4. Tree Pruning

- a) This development consent only permits the pruning of the trees numbered 508, 509, 511 and 907 as identified in the Arboricultural Impact Assessment prepared by ArborSafe dated 23 October 2020.
- b) Works can be undertaken in the form of canopy modification as follows:

Tree number	Work prescribed
508, 509, 907	Crown modification as prescribed in <i>Australian Standard AS4373-2007 Pruning amenity trees</i> up to 10 percent
511	Crown Maintenance as prescribed in the <i>Australian Standard AS4373-2007 Pruning amenity trees</i> up to 30 percent

- c) All pruning work must be undertaken by an arborist with minimum AQF3 qualifications.

Note: The pruning 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 (HDCCP)

5. 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 plans must not be inconsistent with the Development Consent plans.

6. 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*, \$178,300 must be paid to Council to cater for the increased demand for community infrastructure resulting from the development, based on development costs of \$17,830,000.
- b) The value of this contribution is current as at 1 March 2021. If this contribution is not paid within the financial quarter that this condition was generated, the contribution payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 94 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

Where:

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

\$CDC is the amount of the contribution as set out in this Development Consent

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

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

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

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

Council's S7.12 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
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7. Modification of Review of Environmental Factors (REF)

To enable the integration of the two developments the REF is to be modified, and an alteration of the determination made under the *NSW Code of Practice for Part 5 activities for registered nongovernment schools* (August 2017) for the issuing of a further Decision Statement. The modified REF is to be submitted with the Construction Certificate application.

8. Hornsby Shire Local Traffic Committee

To ensure the safe movement of construction vehicles during pickup and drop-off times along Unwin Road, on-street parking restrictions are to be applied along the western side of Unwin Road between Pacific Highway and Clarke Road in accordance with the approved 'Proposed Parking Restrictions' plans prepared by Hornsby Shire Council, subject to approval from the *Hornsby Shire Local Traffic Committee*.

Note: Upon lodgement of an application to the Hornsby Shire Local Traffic Committee, it is estimated that a determination will be made within 1 month. The application is to be submitted via email to TrafficBranch@hornsby.nsw.gov.au.

9. Building Code of Australia

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

11. Access and Mobility

The development must be carried out in accordance with the recommendations provided in the Disability Access Report prepared by Cheung Access dated 29 October 2020. Details are to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

12. 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.

13. Dilapidation Report

- a) In accordance with the recommendations of the approved Construction Management Plan, a 'Dilapidation Survey and Report' is to be prepared by a chartered structural engineer and provided to Hornsby Shire Council (devmail@hornsby.nsw.gov.au) and the Principal Certifying Authority with the application for a Construction Certificate.
- b) The 'Dilapidation Survey and Report' must detail the existing structural conditions of all surrounding public infrastructure with attention to existing damage to assist in accurately ascertaining any further damage resulting from construction works. The public infrastructure outlined must include: full road pavement widths, inclusive of kerbs and gutters along the Unwin Road frontage of the site, and all driveway crossings and laybacks along the Unwin Road frontage of the site.

14. 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*".

15. Stormwater Management

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 addition to the following requirements:

- a) Connected to the existing drainage system; and
- b) Be designed by a Chartered Professional Civil / Hydraulic Engineer of the Institution of Engineers Australia.

16. On-Site Stormwater Detention

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

- a) Storage capacity to accommodate volume from up to 50 years ARI (average recurrence interval) storms and a maximum discharge (when full) limited to 5 years pre development rate.
- b) Have a surcharge/inspection grate located directly above the outlet. Discharge from the detention system is to be controlled via a 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with a 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 is to be installed.
- d) Not be constructed in a location that would impact upon the visual or recreational amenity of nearby residents.
- e) Detail calculations are to be shown on the Construction Certificate plans.
- f) An overflow/escape path shall be incorporated in the design.

17. Water Quality / Bio Retention System

A Water Sensitive Urban Design is to be prepared and constructed. The stormwater leaving the development must achieve the quality as specified in the *Hornsby Development Control Plan 2013* (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.

18. Construction Management Plan (CMP)

To assist in the protection of the public, the environment and Council's assets, a separate Construction 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 CMP 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 truck and dog vehicles 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) Swept path analysis for ingress and egress of the site for all stages of works.
- x) 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.
- xi) 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.
- xii) The number of weeks trucks will be accessing and leaving the site with excavated or imported fill material.
- xiii) The maximum number of trucks travelling to and from the site on any given day for each stage of works.
- xiv) The maximum number of truck movements on any given day during peak commuting periods for all stages of works.
- xv) The source site location of any proposed fill to be imported to the site, for all stages of works.
- xvi) 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.

- xvii) There is a requirement to obtain a Work Zone
 - xviii) If there is a requirement to obtain a Work Zone, Out of Hours permit, partial Road Closure or Crane Permit, the Plan must detail these requirements and include a statement that an application to Hornsby Shire Council will be made to obtain such a permit.
 - xix) To accommodate construction vehicle access in Unwin Road, parking restrictions in Unwin Road (western side) between Pacific Highway and Clarke Road shall be implemented, subject to approval by the Hornsby Local Traffic Committee, in accordance with the Unwin Road, Waitara Proposed Parking Restrictions Plans 1 to 3, prepared by Hornsby Shire Council, dated 20 January 2021, Drawing No's LTC TBA/2021 1 to 3.
- 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) Identification of approved sediment and erosion control measures.
- f) The CMP 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 for registration with the application for the Construction Certificate.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS
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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 Measures

- a) Trees to be retained and numbered 316, 317, 444-446, 448, 469, 470, 477, 478, 479, 480, 481, 489, 490, 492, 493, 494, 504, 505, 506, 507, 508, 509, 510, 511, 513, 515, 758, 759, 901, 902, 903, 904, 908, 990, 991, 992, 993, 994, 995, 998, 999 as identified in the AIA provided by Arborsafe dated must have tree protection measures for the ground, trunk and canopy installed by the project arborist as follows:
 - i) Tree protection fencing for the trees to be retained 316, 317, 444-446, 448, 469, 470, 477, 478, 479, 480, 481, 489, 490, 492, 493, 494, 504, 505, 506, 507, 508, 509, 510, 511, 513, 515, 758, 759, 901, 902, 903, 904, 908, 990, 991, 992, 993, 994, 995, 998, 999 numbered must be installed by the engaged AQF 5 project arborist and consist of 1.8m high temporary fencing panels installed in accordance with *Australian Standard AS4687-2007 Temporary fencing and hoardings*.
 - ii) 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.
- b) The provision of a tree protection plan must be provided in accordance with Hornsby Report guidelines prior to the commencement of the proposal indicating the location of fencing for the duration of the project.

- c) Where tree crown protection measures are required (as designated by the Cert 5 Project Arborist), they must be installed by the AQF 5 project arborist and included in the Tree Protection Plan (point b) submitted to Council.
- d) Where trunk protection is designated by the Cert 5 Project Arborist, the circumference of the trunk(s) must be wrapped in hessian material to provide cushioning for the installation of timber planks. All trunk protection works are to be included in the Tree Protection Plan (point b) submitted to Council.
- e) Timber planks (50 x100mm) must be spaced at 100mm intervals and must be attached using adjustable ratchet straps.
- f) All tree protection zones must have a layer of wood-chip mulch at a depth of between 150mm and 300mm.
- g) Where wood-chip mulch is permitted by Council instead of tree protection fencing within the tree protection zones, the wood-chip must be covered with a layer of geotextile fabric and rumble boards.

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

25. Temporary Pedestrian Management Bridge

To facilitate safe pedestrian access during construction works, a temporary pedestrian management bridge is to be provided to connect the northern and southern sides of The Avenue in accordance with the recommendations under Section 3.2 of the submitted *Preliminary Construction Traffic Management Plan* and the following requirements:

- a) The temporary pedestrian management bridge is to be designed and positioned in accordance with the *Preliminary Site Layout Plan* provided in Appendix B of the *(Preliminary) Construction Management Plan*, Revision E prepared by EPM Projects, dated 11 February 2021;
- b) Certification of the temporary pedestrian management bridge by a chartered structural engineer is to be submitted to the Council (devmail@hornsby.nsw.gov.au) and the principal certifying authority prior to the commencement of works.

26. 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.
- b) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
- c) The receptacle lid must be kept closed at all times, other than when garbage is being deposited.
- d) Food scraps must be placed in the garbage receptacle and not in demolition and construction waste bins.

REQUIREMENTS DURING CONSTRUCTION

27. 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.

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. 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.

30. 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.

31. Maintenance of public footpaths

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

32. Compliance with Construction Management Plan

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

33. Prohibited Actions Within the Fenced Tree Protection Zone

The following activities are prohibited within the approved fenced tree protection zones unless otherwise approved by Council:

- a) Soil cutting or filling, including excavation and trenching
- b) Soil cultivation, disturbance or compaction
- c) Stockpiling storage or mixing of materials
- d) The parking, storing, washing and repairing of tools, equipment and machinery
- e) The disposal of liquids and refuelling
- f) The disposal of building materials

- g) The siting of offices or sheds
- h) Any action leading to the impact on tree health or structure

34. Maintaining the Health of Trees Approved for Retention

The appointed project arborist must monitor and record any and all necessary actions required to maintain tree health and condition for trees numbered 316, 317, 444-446, 448, 469, 470, 477, 478, 479, 480, 481, 489, 490, 492, 493, 494, 504, 505, 506, 507, 508, 509, 510, 511, 513, 515, 758, 759, 901, 902, 903, 904, 908, 990, 991, 992, 993, 994, 995, 998, 999 on the approved plans.

35. Approved Works Within Tree Protection Zone Incursions

- a) Where tree root pruning is required for the installation of piers, driveway or underground services, the pruning must be overseen by the AQF 5 project arborist and must be undertaken as follows:
 - i) Using sharp secateurs, pruners, handsaws or chainsaws with the final cut being clean.
 - ii) The maximum diameter of roots permitted to be cut is 50 mm.
- b) Where the building footprint enters or transects the Tree Protection Zones of trees to be retained numbered 316, 317, 444-446, 448, 469, 470, 477, 478, 479, 480, 481, 489, 490, 492, 493, 494, 504, 505, 506, 507, 508, 509, 510, 511, 513, 515, 758, 759, 901, 902, 903, 904, 908, 990, 991, 992, 993, 994, 995, 998, 999 sensitive construction techniques in the form of screw pilings or piers, cantilevered or suspended slab design must be employed to create a 100mm clearance above existing soil grade.
 - i) Excavations for the construction and/or installation of the piers in the Tree Protection Zone of trees to be retained on the approved plans must be supervised by the project arborist and undertaken manually to locate roots and allow for pruning.
- c) To minimise impacts within the Tree Protection Zone (TPZ) of trees numbered 316, 317, 444-446, 448, 469, 470, 477, 478, 479, 480, 481, 489, 490, 492, 493, 494, 504, 505, 506, 507, 508, 509, 510, 511, 513, 515, 758, 759, 901, 902, 903, 904, 908, 990, 991, 992, 993, 994, 995, 998, 999 on the approved plans, the installation of services must be undertaken as follows:
 - i) The AQF 5 project arborist must be present to oversee the installation of any underground services which enter or transect the tree protection.
 - ii) The installation of any underground services which either enter or transect the designated TPZ must utilise directional drilling only
- d) Where scaffolding is required, ground protection must be installed beneath the scaffolding in the following order:
 - i) Installation of a 100mm deep layer of woodchip and;
 - ii) Installation of geotextile fabric ground covering and;
 - iii) Installation of scaffold boarding above the woodchip and geotextile fabric.

36. Building Materials and Site Waste

The stockpiling of building materials, the parking of vehicles or plant, the disposal of cement slurry, waste water or other contaminants must be located outside the tree protection zones as prescribed in the conditions of this consent of any tree to be retained.

37. Unexpected Finds

Should the presence of asbestos or soil contamination, not recognised during the application process be identified during any stage of works, the applicant must immediately notify the PCA and Council.

38. 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.

39. 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

40. Removal of Temporary Pedestrian Management Bridge

The temporary pedestrian management bridge is to be removed prior to the Issue of an Occupation Certificate upon the cessation of construction vehicle movements on-site.

41. Certification of WSUD Facilities

Prior to the issue of an Occupation Certificate, 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 water quality targets as specified in the Hornsby Development Control Plan 2013.

42. Final Tree 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 and;

Note: Copies of monitoring documentation may be requested throughout DA process.

43. Asbestos Clearance Certificate

Should any asbestos be encountered during works, a licenced asbestos assessor is required to provide a Clearance Certificate to the Certifier prior to the issue of an Occupation Certificate, certifying that the asbestos has been removed and appropriately disposed of, and the site is now suitable for its approved use.

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 Engineering Works and Certification

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

48. Fire Safety Statement – Final

In accordance with the *Environmental Planning & 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.

49. 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.

50. 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

51. Number of Students

A maximum of 2420 students are to be enrolled at Barker College and a maximum of 339 equivalent full time staff are to be employed at Barker College. This includes a child care centre (Pre-Kindergarten) which must accommodate a maximum of 40 children at any one time.

Any increase to these student or staff numbers is not to occur without prior development consent.

52. Noise – Plant and Machinery

- a) The level of total continuous noise emanating from operation of all the plant, including air conditioning units and processes in all buildings (LA10) (measured for at least 15 minutes) in or on the above premises, must not exceed the background level by more than 5dB(A) when measured at all property boundaries.
- b) An acoustic assessment is to be undertaken by a suitably qualified environmental consultant within 60 days of occupying the site in accordance with the Environment Protection Authority's *Noise Policy for Industry (2017)*, *Council's Policy and Guidelines for Noise and Vibration Generating Development (Acoustic Guidelines V.5, 2000)* and the DECC's *Noise Guide for Local Government (2004)*. The assessment must be held on site for review by Council if necessary. Should the assessment find that noise from the premise exceeds 5dB(A) above background noise levels, appropriate measures must be employed to rectify excessive noise.

53. 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.

- 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

A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation protected under the Hornsby Development Control Plan 2013 without the authority conferred by a development consent or a permit granted by Council.

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

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

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

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.

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.

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.