

COUNCIL ASSESSMENT REPORT

SYDNEY NORTH PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSNH-425 - DA/885/2023
PROPOSAL	Demolition of dwelling houses and associated structures. Construction of educational establishment with teachers' accommodation and basement carparking on 1-3 Stevens Street, and a split-level community facility on 26 Yarrara Road.
ADDRESS	Lot 12 DP 1151463, No. 1-3 Stevens Street, Pennant Hills Lot 13 DP 25833, No. 26 Yarrara Road, Pennant Hills
APPLICANT	Lachlan Rodgers - The Planning Hub
OWNER	The Association for Educational Projects Ltd
DA LODGEMENT DATE	13 September 2023
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 5(a) of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 declares the proposal regionally significant development as a private community facility (educational establishment) having a capital investment value in excess of \$5 million
CIV	\$5,216,000.00 (excluding GST)
CLAUSE 4.6 REQUESTS	N/A
KEY SEPP/LEP	<ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Hornsby Local Environmental Plan 2013 Hornsby Development Control Plan 2013
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN	Seven submissions in objection, two submissions in support. Key issues include:

SUBMISSIONS	<ul style="list-style-type: none"> • Size and scale of development • Compliance with HLEP and HDCP • Planning Approval Pathway • Clarification on community facility • Traffic and transport • Vehicle accidents from exiting vehicles • Construction Management • Emergency Services Access • Excavation work • Use of quiet room and library • Would the facility contain a place of public worship? • Noise impact • Clarification on the use of the residential component • Value to the local community • Value to the personal development of the occupants • Proximity of the community facility to residential properties • Loss of privacy • Venue capacity • Flora and Fauna Impact • Tree loss
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Waste Management Plan • Statement of Environmental Effects • Landscape Plan • Ecological Assessment • Arborist Report • Architectural Plans • Access Report • CIV report • Plan of Management • Survey Plan • Section J Report • Heritage Impact Statement • Flora and Fauna Assessment • Civil Engineering Plans • BASIX Certificate • Acoustic Report
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	N/A
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	5 June 2024

PLAN VERSION	06/12/2023 Version C
PREPARED BY	Katrina Maxwell, Senior Town Planner
COI DECLARATION	No conflict of interest declared
DATE OF REPORT	23 May 2024

EXECUTIVE SUMMARY

The development application (DA/885/2023) seeks consent for the demolition of existing educational establishment buildings and a dwelling house, the construction of educational establishment and a community facility for the Association of Educational Projects Ltd. The two storey educational establishment at 1-5 Stevens Street contains basement carparking, an educational establishment on the ground floor, and ancillary staff accommodation on the first floor. The community facility consists of a basement level comprising of storeroom, water tanks, service room and a lift and a ground floor consisting of meeting rooms, multi-purpose room, bathroom facilities, cleaners' cupboard, and two balconies.

The subject site is known as Lot 12 DP 1151463 and Lot 13 DP 25833 1-3 Stevens Street and 26 Yarrara Road Pennant Hills ('the site') and comprises a corner lot with two road frontages being Yarrara Road to the east, and Stevens Street to the north. The site is located between Yarrara Road Street in the east and Willis Avenue to the west and occupies an irregularly shaped area of 2,468m². Existing vehicle access points to the site are from Stevens Street and Yarrara Road.

Existing development on the site consists of two single storey dwelling houses on 1-3 Stevens Street which have been converted to an educational establishment, and a single storey dwelling house on 26 Yarrara Road. The dwelling house on 26 Yarrara Road was previously approved and used for professional consulting rooms. The educational establishment currently has approval for 15 students and accommodation for 5 employees.

The site is in proximity to Pennant Hills and Thornleigh Train Stations and is in the vicinity of the commercial area of Pennant Hills including Pennant Hills Bowling Club, childcare centres, library, Wollundry Park and shops. Stevens Street is characterised by one and two storey dwelling houses.

The site is in the R2 Low Density Residential Zone pursuant to Clause 2.2 of the Hornsby Local Environmental Plan 2013 ('HLEP'). The proposal is not consistent with the current definition of an educational establishment and therefore relies on existing use rights. Community facilities are permissible in the zone with consent.

As the educational establishment relies on existing use rights, the following planning controls strictly apply to the community facility only and have been used as a guideline for the educational establishment.

The principal planning controls relevant to the proposal include the HLEP and Part 1 and 7 of Hornsby Development Control Plan 2013 ('HDCP'). The proposal is consistent with various provisions of the planning controls including:

- *Clause 2.3 Zone objectives and Land Use Table - Hornsby Local Environmental Plan 2013*
- *Clause 4.3 Height - Hornsby Local Environmental Plan 2013*
- *Clause 6.2 Earthworks - Hornsby Local Environmental Plan 2013*

The proposal is considered to be consistent to various objects of the EP&A Act (orderly and economic development of land) and is in the public interest given it is generally consistent with various planning controls.

Concurrence was required from Sydney Trains for the proposal under Section 4.51 of the *Environmental Planning and Assessment Act 1979* ('EP&A').

Jurisdictional prerequisites to the grant of consent imposed by the following controls have been satisfied including:

- Section 2.99 and 2.100 of the Transport and Infrastructure SEPP for consideration of rail corridor and Chapter 3 for the consideration of educational establishments
- Chapter 3 of the Industry and Employment SEPP for consideration of Advertising and Signage.

The application was placed on public exhibition from 21 September 2023 to 12 October 2023, with nine submissions being received. These submissions raise issues regarding compliance with HLEP and HDCP, the appropriate planning approval pathway, clarification on the use of the facility, traffic and transport, vehicle accidents from exiting vehicles, construction management, emergency services access, excavation work, use of quiet room and library, would the facility contain a place of public worship, noise impact, clarification on the use of the residential component, value to the local community, value to the personal development of the occupants proximity of the community facility to residential properties loss of privacy, venue capacity, flora and fauna impact and tree loss.

The application is referred to the Sydney North Planning Panel ('the Panel') as the development is '*regionally significant development*', pursuant to Section 2.19(1) and Clause (5)(b) of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 as the proposal is development for private *community facilities* with a CIV over \$5 million.

A briefing was held with the Panel on 18 October 2023 where key issues were discussed, including permissibility/existing use rights, bulk and scale, biodiversity and tree preservation, heritage, car parking, waste management, landscaping, drainage and the plan of management.

Following consideration of the matters for consideration under Section 4.15(1) of the EP&A Act, the provisions of the relevant State environmental planning policies, in particular SEPP (Transport and Infrastructure) 2021 and HLEP, the proposal is supported.

The proposal is considered to be in the public interest as it provides educational facilities and community facilities and would not result any adverse impacts to the community.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(b) of the EP&A Act, DA/885/2023 is recommended for approval subject to the conditions contained in Attachment A of this report including approval from the Applicant to impose conditions.

1 THE SITE AND LOCALITY

1.1 The Site

The 2,468m² site is on the corner of Stevens Street and Yarrara Road and contains three dwelling houses and associated structures. The two dwelling houses on No. 1-3 Stevens Street are currently occupied for the purpose of an after-hours school study centre with accommodation for teachers known as “Eremeran Hills Study Centre”. The site slopes 2m to the rear.

No. 1-3 Stevens Street has a slope of 3.16m (5%) with its lowest point at the northwestern corner of the lot. No. 26 Yarrara Road has a slope of 3.38m (6.8%) sloping down to the rear of the site (northwestern boundary).

The site is located adjacent to Blue Gum High Forest which is listed as a critically endangered ecological community under the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999* and the NSW *Biodiversity Conservation Act 2016*.

The site is not bushfire prone and is not flood prone. However, the lot to the rear is a flood control lot.

Three sewer mains run across the site radiating from the northern corner of No. 26 Yarrara Road. No. 26 Yarrara Road benefits from an Easement to Drain Water which burdens No. 28 Yarrara Road, and Nos. 52-54 Yarrara Road.

The neighbouring property at No. 5 Stevens Street is a heritage item with some heritage elements to the garden, however the garden/vegetation itself is not listed as an item.



Figure 1: Aerial Photo of Site (Source: Intramaps)

1.2 The Locality

The site is located in a predominately low density residential area. The site is in proximity to Pennant Hills Preschool, and Pennant Hills Memorial Children's Centre. The site is approximately 30m to the north of Pennant Hills Bowling Club on Yarrara Road.

The site is 320m to the north of Pennant Hills Railway Station and 520m to the south of Thornleigh Railway Station.

The site is approximately 300m from Pennant Hills CBD which includes Pennant Hills Library, Community Centre and Wollundry Park.

While there is no public bus stop in the vicinity, The 8004 bus conveys Pennant Hills High School and Loreto College students to the corner of Yarrara Road and Stevens Street.



Figure 2: Locality Plan showing the site hatched.

2 THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal is for the construction of an educational establishment with teachers' accommodation and basement carparking on No. 1-3 Stevens Street, and a split level community facility on No. 26 Yarrara Road.

The proposed development is to facilitate the continued use of the site as the Eremeran Hills Study Centre.

Specifically, the proposal involves:

- Demolition of three dwelling houses and associated structures

- Construction of an educational establishment with teachers' accommodation and basement carparking on Nos. 1-3 Stevens Street, and a split level community facility on No. 26 Yarrara Road
- The two buildings would be linked by an outdoor raised covered walkway
- Nineteen trees and one group of trees would be removed by the proposal.
- The educational establishment on existing Lot 12 (Nos. 1-3 Stevens Street) would be connected directly to Council's street drainage system in Stevens Street and the community facility on existing Lot 13 (No. 26 Yarrara) would be drained to the existing inter-allotment drainage system burdening No. 28 Yarrara Road and Nos. 52-54 Yarrara Road
- On-site detention of stormwater would consist of 5x 50000L rainwater tanks and 3x 8000L rainwater tanks.
- The basement level of the educational establishment would be excavated (815m³ or an estimated 1,100 tonnes of excavated material)
- A condition of consent would require the consolidation of Lot 12 DP 1151463, Nos. 1-3 Stevens Street, Pennant Hills and Lot 13 DP 25833, No. 26 Yarrara Road, Pennant Hills prior to the issue of an Occupation Certificate for the proposed works.

A description of the proposed works comprising the educational establishment and community facility is detailed below.

2.1.1 Educational Establishment

A new two storey education/ community building consisting of:

- Basement level - 12 car parking spaces, four bicycle parking spaces, one motorcycle parking space, storeroom, services room, and lift
- Ground floor - quiet room, offices, library, bathroom facilities, living room, study room, tutorial rooms, laundry, kitchen, dining room and covered alfresco.
- First floor - media room, rumpus room, informal sitting room, nine single bedrooms with ensuites



Figure 3: Extract of Architectural Plans showing Stevens St frontage (Source: DTA Architects)

2.1.2 Community Facility

The community facility building would contain:

- Basement - storeroom, water tanks, service room and a lift
- Ground Floor - meeting rooms, multi-purpose room, bathroom facilities, cleaners' cupboard, and two balconies



Figure 4 Extract of Architectural Plans showing view of development from the North West (Source: DTA Architects)

2.1.3 Operational Details

- A maximum of 20 students would be on site at any one time.
- There would be a maximum number of three staff on site at any one time, with a maximum of 12 staff on site throughout the day through the rotating roster.
- The hours of operation for the site are 10am - 8pm, 6 days per week - Monday to Saturday. Specific hours of operation are outlined below:
 - Monday to Friday (School Term) - 3:30pm to 8pm
 - Monday to Friday (School Holidays) - 10am to 6pm
 - Saturdays - 10am to 6pm (Third Saturday of the month to 8pm)
- Resident volunteers are responsible for directing and coordinating the programs undertaken within the centre. All on-site residents (volunteers) are expected to be employed off-site, but volunteer at the Eremeran Hills Study Centre outside of general work hours. Two part time staff are expected to attend the site to clean and cook outside of student visitor times.
- As per the amended Plan of Management the two facilities would not operate concurrently. During hours that the educational establishment is in use, the community facility would not be in use. This arrangement would be reinforced by a proposed condition of Consent.

The key development data is provided in Table 1 below.

Table 1: Development Data

Control	Proposal
Site area	2,468m ²
GFA	1031.4m ²

FSR (retail/residential)	N/A
Clause 4.6 Requests	N/A
No of apartments	N/A - 9 bedrooms
Max Height	Max height 8.5m. Max - 8.5m proposed (lift overrun)
Landscaped area	1000.7m ² (40%)
Car Parking spaces	12 spaces provided
Setbacks	As per Table 8 and 9 of this Report
Site Coverage	30% (1-3 Stevens St) 50% (26 Yarrara Rd)
Recreation Space	Min 20m ² per student (min 400m ²)

2.2 Background

On 4 November 1988, Council approved DA/405/1988 for the conversion of a dwelling house into professional consulting rooms at No. 26 Yarrara Road. However, it appears that the property has been occupied as a dwelling house since approximately 2009.

On 22 October 2009, Council approved DA/1494/2008 for the use of two existing dwelling houses for the purpose of an after-hours school study centre with accommodation for the teachers and consolidation of one lot into two at Nos. 1-3 Stevens Street. The facility was approved to accommodate a maximum of five staff members and 15 students at any one time. The approved hours of operation were:

- Weekdays evenings between 4 pm and 7 pm
- Saturday afternoons between 2 pm and 4 pm and
- Saturday afternoons between 5 pm and 7 pm

On 31 August 2011, Council refused the subsequent Section 96(1A) application (DA/1494/2008/A) to delete a condition of consent requiring a finger median.

On 19 April 2013, Council approved DA/276/2013 for alterations and additions to the study centre comprising a deck to the rear of the property with a skillion 'Colorbond' roof and stairs at Nos. 1-3 Stevens Street.

On 2 April 2019, a Pre-lodgement meeting (PL/8/2019) was held for construction of a community facility with residential accommodation as first floor level. Issues raised included:

- Permissibility of a community facility containing residential accommodation (contrary to HLEP definition of a community facility)
- Site coverage
- Building articulation
- Referral to Transport for NSW

On 4 November 2022, DA/1193/2022 was lodged for a similar proposal to the current application. Council raised concerns regarding a number of elements of the proposal including permissibility, and lack of technical information. DA/1193/2022 was subsequently withdrawn on 27 February 2023.

The development application (DA/885/2023) was lodged on 13 September 2023. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Table 2: Chronology of the DA

Date	Event
13 September 2023	DA lodged
21 September 2023 - 12 October 2023	Exhibition of the application
14 September 2023	DA referred to external agencies
18 October 2023	Preliminary Panel briefing
26 October 2023	Request for information from Council to applicant
17 November 2023	Amended plans and supporting documents lodged to address access, waste, traffic, car parking, landscaping and plan of management dated 17 November 2023 accepted by Council under CI 38(1) of the Environmental Planning and Assessment Regulation 2021 ('2021 EP&A Regulation') on 20 November 2023.
5 December 2023	Geotechnical Report (dated 27 November 2023) and Root mapping Report (dated 30 November 2023) and accepted by Council under CI 38(1) of the '2021 EP&A Regulation' on 5 December 2023.
14 December 2023	Additional information received
5 February 2024	Council's Legal advice received
27 March 2024	Amended Stormwater Engineering Plans received accepted by Council under CI 38(1) of the '2021 EP&A Regulation' on 27 March 2024.

2.3 Site History

The following development applications have been previously approved on the site:

- On 4 November 1988 Council approved DA/405/1988 for the conversion of the dwelling into professional consulting rooms at No. 26 Yarrara Road. However, the site has been occupied as a dwelling house since 2009.
- On 22 October 2009, Council approved Development Application No. DA/1494/2008 at 1-3 Steven Street for the use of the two existing dwelling houses for the purpose of an after-hours school study centre (education establishment) with accommodation for the teachers and consolidation of two allotments into one allotment at 1-3 Stevens Street
- A Section 96(1A) application (DA/1494/2008/A) for the deletion of condition No. 13 regarding the construction of median strip was refused on 31 August 2011

- DA/276/2013 was approved on 19 April 2013 for alterations and additions to a dwelling house for the purpose of a deck at 1-3 Steven Street
- A Pre-lodgment meeting (PL/8/2019) was held on 4 April 2021 to discuss the demolition of the existing facility, and the construction of a new community facility.
- On 4 November 2022, Council received DA/1193/2022 for a community facility at No. 1-3 Stevens Street, and 26 Yarrara Road, Pennant Hills

Currently six residents and up to ten students occupy the site at No. 1-3 Steven Street at any one time.

3 STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal required the concurrence (s4.13) of Sydney Trains and further consideration is provided in this report.

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

3.2 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Industry and Employment) 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Hornsby Local Environmental Plan 2013

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in Table 3 and considered in more detail below.

Table 3: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Complies (Y/N)
SEPP (Biodiversity & Conservation)	Chapter 2: Vegetation in non-rural areas Chapter 6: Water catchments	Y
BASIX SEPP	No compliance issues identified subject to imposition of conditions on any consent granted.	Y
SEPP (Industry & Employment)	Chapter 3: Advertising and Signage <ul style="list-style-type: none"> • Section 3.6 - granting consent to signage • Section 3.11(1) - matters for consideration 	Y
SEPP (Planning Systems)	Chapter 2: State and Regional Development <ul style="list-style-type: none"> • Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 5(a) of Schedule 6 as it comprises a private community facility (educational establishment) having a capital investment value in excess of \$5 million. 	Y
SEPP (Resilience & Hazards)	Chapter 4: Remediation of Land <ul style="list-style-type: none"> • Section 4.6 - Contamination and remediation has been considered in the assessment of this development application. The site has historically been used for residential purposes and therefore unlikely to be contaminated. 	Y
SEPP (Transport and Infrastructure)	<u>Chapter 2: Infrastructure</u> <ul style="list-style-type: none"> • Section 2.99 - Excavation in, above, below or adjacent to rail corridors 	Y
	<u>Chapter 3: Educational Establishments</u> <ul style="list-style-type: none"> • Section 3.4 - School - matters for consideration by consent authorities • Clause 3.36(6) consideration of design quality principles set out in schedule 8 of the SEPP • Schedule 8 Design Quality Principles in Schools 	Y

Proposed Instruments	DA Lodged on 13 September 2023. SEPP (Sustainable Buildings) 2022 became effective from 1 October 2023. SEPP (Sustainable Buildings) 2022 applies only to development applications (DAs) that are submitted on the NSW Planning Portal on or after 1 October 2023. There is no requirement for the consent authority to have “accepted” the DA for the provision to apply.	Y
HLEP	<ul style="list-style-type: none"> • Clause 2.3 - Permissibility and zone objectives • Clause 4.3 - Height of Buildings - discussed in Section 3.2.7.3 • Clause 6.2 - Earthworks • Clause 6.4 - Terrestrial Biodiversity 	Y
HDCCP	<p>Part 1 - General Controls</p> <p>Part 7 - Community Uses</p> <p>The proposed development would not alter the development compliance with the relevant Parts of Chapters 1 or 7 of the HDCCP, It is noted that existing use rights apply to part of this development and strict compliance with the HDCCP is not required for part of the development.</p>	Y (except where discussed in this report)

Consideration of the relevant SEPPs is outlined below.

3.2.1 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The application has been assessed against the requirements of Chapter 6 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

3.2.1.1 Chapter 2 Vegetation in Non-Rural Areas

Chapter 2 of this policy aims to protect the biodiversity and amenity values of trees within non-rural areas of the state.

Part 2.3 of the policy states that a development control plan may make a declaration in any manner relating to species, size, location and presence of vegetation. Accordingly, Part 1B.6.1 of the HDCCP prescribes works that can be undertaken with or without consent to trees and objectives for tree preservation.

Nineteen trees and one group of trees would be removed by the proposal. Section 3.4.1 of this report provides an assessment in accordance with Part 1B.6.1 of the HDCCP.

3.2.1.2 Chapter 6 Water Catchments

The site is located within the catchment of the Hawkesbury-Nepean River. The aim of this chapter is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of development are considered in the regional context. Chapter 6 of this Plan contains general planning considerations and strategies requiring Council to consider the impacts of development on water quality, aquaculture, significant vegetation habitats, extraction, environmental heritage and scenic quality, recreation and tourism, and agriculture.

Subject to the implementation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would not impact on the water quality

of the catchment and would comply with the requirements of Chapter 6 of the Biodiversity and Conservation SEPP 2021.

3.2.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy - Building Sustainability Index BASIX- 2004 ('BASIX SEPP') applies to the proposal. The objectives of this Policy are to ensure that the performance of the development satisfies the requirements to achieve water and thermal comfort standards that would promote a more sustainable development.

The application is accompanied by BASIX Certificate No.1247630M_04 prepared by Thermal Performance dated 8 August 2023 committing to environmentally sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. The proposal is consistent with the BASIX SEPP subject to the recommended conditions of consent.

3.2.3 State Environmental Planning Policy (Industry and Employment) 2021

The application has been assessed against the requirements of Chapter 3 of State Environmental Planning Policy (Industry and Employment) 2021.

3.2.3.1 Advertising and Signage

The proposed signage has been assessed against the requirements of Chapter 3 of the Industry and Employment SEPP. This Policy provides State-wide planning controls for advertising signs and prevails over other environmental planning instruments including the HLEP and the HDCP. The aims of the Policy are to ensure that advertising and signage is compatible with the desired amenity and visual character of an area, to provide effective communication in suitable locations and to ensure signage is of high-quality design and finish. The proposed development includes the installation of the following signs:

Provision of business identification signage on the Stevens Street and Yarrara Road frontages to consist of:

- "Eremeran" (not illuminated) - 3.4m x 0.5m with a total area of 1.7m² on the Northern Elevation
- "E" (not illuminated) - 1.2m x 1.1m with total area of 1.3m² on the Eastern Elevation

The proposed signs are 'business identification signs' as defined under the Standard Instrument - Principal Local Environmental Plan 2006.

Council's assessment of the proposal with respect to the criteria in Schedule 5 of the Industry and Employment SEPP is provided Table 4 below.

Table 4: Industry and Employment SEPP - Advertising and Signage

Control	Requirement	Comment
Schedule 5 - Assessment Criteria (to be considered for all advertising structures including "business identification signs")		
Character of the area	Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Yes - The signage is limited in scale and appropriate for the residential locality.

	Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	Yes - The signage is considered consistent with the signage in the locality in terms of design and numbers of signs proposed.
Special areas	Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	No - The proposed signage is limited in scale and appropriate with respect to its residential setting.
Views and vistas	Does the proposal obscure or compromise important views? Does the proposal dominate the skyline and reduce the quality of vistas? Does the proposal respect the viewing rights of other advertisers?	No - Important views would be impacted. The proposal does not dominate the skyline or impact on vistas. All signage is below the maximum permissible building height and limited in size. The signage would not impact on the viewing rights of existing nearby signage.
Streetscape, setting or landscape	Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? Does the proposal contribute to the visual interest of the streetscape, setting or landscape? Does the proposal reduce clutter by rationalising and simplifying existing advertising? Does the proposal screen unsightliness? Does the proposal protrude above buildings, structures or tree canopies in the area or locality? Does the proposal require ongoing vegetation management?	Yes - The scale, proportion and form are appropriate for the streetscape and landscape. Yes - The proposed signs would have a negligible effect on the visual interest of the streetscape. N/A- No existing signage on site. No - The signage is attached to the external walls of the building No - All signage would be below the ridge level of the proposed buildings. No - Vegetation management is required with respect to the proposed signage.
Site and Building	Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Yes - The scale of the signage is considered appropriate having regard to the scale of the proposed buildings on the site.

	Does the proposal respect important features of the site or building, or both?	The proposed signage is compatible with the architectural design of the proposed buildings.
	Does the proposal show innovation and imagination in its relationship to the site or building, or both	The signage is appropriate for the site and consistent with the proposed architectural theme.
Associated devices and logos	Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	There are no devices, platforms, overhangs or protrusions as part of this proposal.
Illumination	Would illumination result in unacceptable glare?	No Illumination proposed
	Would illumination affect safety for pedestrians, vehicles or aircraft?	No Illumination proposed
	Would illumination detract from the amenity of any residence or other form of accommodation?	No Illumination proposed
	Can the intensity of the illumination be adjusted, if necessary?	No Illumination proposed
	Is the illumination subject to a curfew?	No Illumination proposed
Safety	Would the proposal reduce the safety for any public road?	No, the signage would not include flashing or moving images.
	Would the proposal reduce the safety for pedestrians or bicyclists?	No, Signage is attached to building and it is not illuminated
	Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No, the signage would not obscure sightlines from public areas.

As outlined in Table 4 above, the proposal satisfies the assessment criteria under Schedule 5 and is consistent with the objectives of the Industry and Employment SEPP.

3.2.4 State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')

The proposal is regionally significant development pursuant to Section 2.19(1) as it satisfies the criteria in Clause 5(a) of Schedule 6 of the Planning Systems SEPP as the proposal is development for private community facility (educational establishment) having a capital investment value in excess of \$5 million.

The provided Quantity Surveyors Report provides a CIV of \$5,216,000.00 which satisfies this criterion. Accordingly, the Sydney North Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

3.2.5 State Environmental Planning Policy (Resilience and Hazards) 2021

The provisions of Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 ('Resilience and Hazards SEPP') have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or would be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

It is noted that there is no contamination assessment provided with the application. The Statement of Environmental Effects refers to the Resilience and Hazards SEPP, stating that *"The subject site has been used for residential and educational purposes for an extended period of time, it is not located in an investigation area and a change of use to a more sensitive land use is not proposed. The site is therefore suitable for the intended use and no further investigation is required"*.

There is no information on Council's record to suggest the presence of any contamination at the site. Conditions can be applied to manage any potential unexpected finds during work.

The proposal is considered to be consistent with the Resilience and Hazards SEPP.

3.2.6 State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 3 of State Environmental Planning Policy (Transport and Infrastructure) 2021 (T&I SEPP) provides planning controls for school development, with further controls within Schedule 8 which relate to the design quality of the development.

Clause 3.36 of the T&I SEPP requires a consent authority to take into consideration the design quality of the development in accordance with the design quality principles set out in Schedule 8 of the SEPP.

The provisions of the T&I SEPP only apply to the educational establishment on Nos. 1-3 Stevens Street, and not the community facility on No. 26 Yarrara Road. It is acknowledged that the proposed educational establishment relies on existing use rights and as such does not adhere to the current definition of an educational establishment meaning a school, or a tertiary institution, including a university or a TAFE establishment. Therefore, the way the Design Quality Principles are interpreted and complied with would vary from that of a conventional school. Having regard to existing use rights and the differing operation of this educational establishment, the Design Quality Principles are considered as guideline in this instance, and not a statutory requirement for assessment of this development application.

DTA Architects provided a statement addressing Schedule 8 Design Quality Principles in Schools of the T&I SEPP. An assessment of the development against the seven principles is provided within the below table:

Table 5: Schedule 8 - Transport and Infrastructure SEPP

Design Quality Principles	Design Response	Comply (Y/N)
Principle 1 - context, built form and landscape		
Schools should be designed to respond to and enhance the positive qualities of their setting,	A heritage impact statement was prepared in support of this development application. Cultural elements such as a yarning circle have	Y

<p>landscape and heritage, including Aboriginal cultural heritage. The design and spatial organisation of buildings and the spaces between them should be informed by site conditions such as topography, orientation and climate.</p>	<p>been incorporated into the landscape design. The design brief called for the redevelopment of an existing education establishment with teachers accommodation, construction of a community facility and associated works". The proposed redevelopment would house nine residents and a maximum of 20 students who utilize the centre for educational programs that encourage everyone to develop fully as a person.</p>	
<p>Landscape should be integrated into the design of school developments to enhance on-site amenity, contribute to the streetscape and mitigate negative impacts on neighbouring sites</p>	<p>Landscape screening is provided along the northwestern boundary and southwest boundary to provide screening to adjoining properties. Attractive landscaping would be provided along the Stevens Street frontage.</p> <p>The redevelopment would see the two buildings connected via an elevated covered walkway along a landscape courtyard and heavily landscape rear yard.</p>	Y
<p>School buildings and their grounds on land that is identified in or under a local environmental plan as a scenic protection area should be designed to recognise and protect the special visual qualities and natural environment of the area and located and designed to minimise the development's visual impact on those qualities and that natural environment.</p>	<p>The site is not identified under a a local environmental plan as a scenic protection area. The positioning of the redevelopment along Stevens Street and Yarrara Road has been carefully considered to reduce impact on surrounding neighbouring properties, and maximise the outdoor space for residents, staff and its participants.</p> <p>By locating the built form in the manner shown, the private courtyard areas remain enclosed by the structure.</p> <p>The density has been kept to the primary road, Yarrara Road and adjacent to the train line, further improving the outcome for residents. All boundaries are proposed to have 1.8m high fencing and planting spanning the perimeter, further improving the space for the occupants and the surrounding residents.</p> <p>The extensive landscaping and outdoor yarning circle would ensure the facility can offer a safe and enhanced learning environment during its programs. It is anticipated by participants and students having access to a relaxing, and well landscaped space would see removal of distractions during programs and contribute to the development of students through the centres regular activities such as mentoring and study</p>	Y

	<p>sessions.</p> <p>The building façade and material selections have been carefully considered, using earthy and muted colour tones ensuring both the neighbouring heritage item and surrounding streetscapes are enhanced. This colour pallet is sympathetic and allows for the native landscaping colours to remain a prominent feature of the development.</p> <p>The landscaping has been designed in a way to ensure spaces are created purposefully to serve the needs of either the Educational Establishment or the community centre, with learning spaces, active spaces and small quiet areas. The development has also ensured the retention of large <i>Eucalyptus</i> trees allowing for tree sensitive construction and ensuring the landscape design enhances the existing major tree species.</p>	
Principle 2 - sustainable, efficient and durable		
<p>Good design combines positive environmental, social and economic outcomes. Schools and school buildings should be designed to minimise the consumption of energy, water and natural resources and reduce waste and encourage recycling.</p> <p>Schools should be designed to be durable, resilient and adaptable, enabling them to evolve over time to meet future requirements.</p>	<p>BASIX Certificate has been submitted with this development application.</p> <p>Rainwater would be collected from the roof into rainwater tanks under the covered walkway</p> <p>As part of design development, the applicant was careful to focus on minimization of resources and energy consumption. The building design includes 8 x rainwater harvesting tanks for irrigation, solar energy for electricity and light coloured roof design for a reduction in overall heat generation. These initiatives would be further developed in the future design stages in consultation with the relevant consultant teams.</p>	<p>Y</p> <p>Y</p>
Principle 3 - accessible and inclusive		
<p>School buildings and their grounds should provide good wayfinding and be welcoming, accessible and inclusive to people with differing needs and capabilities.</p>	<p>Through a combination of stairs, ramps and a lift, internal and external spaces, across the site are accessible to all students. Circulation starts from the main access point into the site connecting all existing</p>	<p>Y</p>

<p>Note— Wayfinding refers to information systems that guide people through a physical environment and enhance their understanding and experience of the space.</p> <p>Schools should actively seek opportunities for their facilities to be shared with the community and cater for activities outside of school hours.</p>	<p>and new buildings across all levels and supporting simple wayfinding logic across the learning communities.</p> <p>Accessible and ambulant toilets are provided on all levels of the buildings in accordance with BCA requirements.</p> <p>In addition to internal space and necessary BCA compliance, the landscaping and outdoor spaces have been designed to ensure inclusivity and accessibility is achieved. This can be seen through the inclusion of the concrete footpath along the Educational Establishment and a number of accessible ramps, enabling access regardless of ability, and lift access to the Community Space.</p> <p>An accessibility report has been supplied as part of this application.</p> <p>The proposed educational establishment relies on existing use rights and as such does not adhere to the current definition of an educational establishment meaning a school, or a tertiary institution, including a university or a TAFE establishment. A community facility is a component of the development. The community facilities offers mothers groups as well as a number of community outreach programs.</p>	<p>Y</p>
<p>Principle 4 - Health and Safety</p>		
<p>Good school development optimises health, safety and security within its boundaries and the surrounding public domain, and balances this with the need to create a welcoming and accessible environment.</p>	<p>Circulation pathways provide protection from adverse weather conditions and allows for seamless connections between facilities amenities.</p> <p>The proposed redevelopment continues to place health, safety, and security at front of mind. This is evident with the orientation and built form. As the property is bound by both Yarrara Road and Stevens Street, the design wraps the perimeter of these streets, creating a safe outdoor courtyard for students, staff and residents shielded away from the street.</p> <p>Along the Yarrara Road frontage a 1.2m high fence and gates are provided, securing access along this boundary. Accessible ramps and latch-clearances are also included providing safe access for all. Rear Boundary fencing would also extend to 1.8m high and wrap the entire rear of</p>	<p>Y</p>

	<p>the site further providing security and safety.</p> <p>The building would comply with all relevant safety regulations and standards.</p> <p>Emergency egress is provided through compliant stairs, new lifts and hydrants where required. Fire safety measures include a Fire Panel, extinguishers, and hydrants.</p> <p>In the front of the building along Stevens Street, generous planting and landscaping has been adopted, allowing for a soft landscape edge and transition to the Educational Establishment component of the building. The entrance along Yarrara Road to the Community Centre includes soft landscaping elements within the front of the building, front fencing, and a gate.</p> <p>Overall, the design team has carefully considered its users in ensuring a safe and secure environment is created.</p>	
Principle 5 - Amenity		
<p>Schools should provide pleasant and engaging spaces that are accessible for a wide range of educational, informal and community activities, while also considering the amenity of adjacent development and the local neighbourhood.</p>	<p>The proposed design has retained many significant existing trees. A landscape plan incorporating areas for outdoor learning has been provided. Large canopy trees are provided within the building frontages of the site.</p> <p>Creating pleasant and engaging spaces the design team have adopted a wide range of informal and formal spaces supporting the broad nature of study sessions applied. The building layout and interior design considers the users and programs run at the Study Centre. The indoor areas, such as the quiet room and library, have been designed to create a flexible space for students to learn, and or a private quiet space for deep reflection.</p> <p>This flexibility in configuration enables the Study Centre to ensure it continually meets the needs of its cohort. The library equally benefits from natural light and access to the terrace via large sliding doors, further enhancing the learning experience of students. The Tutorial and Study rooms offer extensive natural light and privacy during study sessions for both students and their teachers. Equally the Community Centre offers large meeting rooms, ensuring AEPLs users are offered the necessary flexibility depending on the course selected.</p>	

<p>Schools located near busy roads or near rail corridors should incorporate appropriate noise mitigation measures to ensure a high level of amenity for occupants.</p>	<p>An acoustic report has been submitted addressing vibration and traffic noise reduction requirements.</p>	<p>Y</p>
<p>Schools should include appropriate, efficient, stage and age appropriate indoor and outdoor learning and play spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage and service areas.</p>	<p>A large landscaped outdoor area with northerly aspect is provided including a yarning circle and outdoor seating for outdoor learning and passive recreation.</p> <p>Outdoor learning spaces and pathway circulation ensure accessibility to different learning environments is provided to all. Generous outdoor landscaping and yarning circle are adopted further promoting a peaceful amenity for students, staff and residents. Privacy for both participants and neighbours has been a key criterion in the selection of perimeter planting. Perimeter planting sizes are larger than those internally allowing for future screening of the rear yard.</p> <p>This same principle has been adopted internally, with spaces such as the terrace and balcony including structural screening details ensuring maximum privacy for both neighbouring residents and participants attending the centre.</p>	<p>Y</p>
<p>Principle 6 - Whole of Life, Flexible and Adaptive</p>		
<p>School design should consider future needs and take a whole-of-life-cycle approach underpinned by site wide strategic and spatial planning. Good design for schools should deliver high environmental performance, ease of adaptation and maximise multi-use facilities.</p>	<p>Good accessibility throughout the site.</p> <p>The buildings and surrounds have been well considered, accommodating the current and future needs of the Study Centre. The library, quiet space, tutorial rooms and meeting rooms all are large enough to ensure the nominated capacity needs of occupants are met, and a flexible learning environment can be provided. This level of adaptation in space means the rooms can service the requirements of changing programs and student needs.</p> <p>As the design develops the team would be seeking to ensure a whole-of-lifecycle strategy is applied to constructability, with consideration to quality control, reduced site wastage and minimized construction timeframes. It is anticipated this would be further developed as the construction details become understood. The team are committed to ensuring robust materials</p>	<p>Y</p>

	<p>are selected with a desire to reduce on-going maintenance requirements.</p> <p>A mixture of native planting, trees and shrubs have been adopted, many being drought tolerant species, reducing irrigation requirements. As previously mentioned, the site has also been provisioned through design the inclusion of rainwater harvesting tanks and solar power panels.</p> <p>Overall, the redevelopment seeks to greatly improve the current building, increase sustainability practices, introduce a flexible internal layout, and therefore support an adaptive approach for future program requirements.</p>	
Principle 7 - Aesthetics		
<p>School buildings and their landscape setting should be aesthetically pleasing by achieving a built form that has good proportions and a balanced composition of elements. Schools should respond to positive elements from the site and surrounding neighbourhood and have a positive impact on the quality and character of a neighbourhood.</p>	<p>The building incorporates a high level of finishes and would appear as an integral part of the school. It is well set back from the street.</p>	Y
<p>The built form should respond to the existing or desired future context, particularly, positive elements from the site and surrounding neighbourhood, and have a positive impact on the quality and sense of identity of the neighbourhood.</p>	<p>The facility is co-located near a library and parklands.</p> <p>The design of the study Centre achieves an aesthetically pleasing outcome while responding to the surrounding neighbourhood and respecting the heritage item located next door. It provides an overall sense of an inviting and nurturing environment for the benefit of its users and wider community.</p>	Y

As outlined in Table 5 above, the proposal is generally consistent with the design quality principles outlined in Schedule 8 of the T&I SEPP.

It is therefore considered that the proposal is generally consistent with the relevant requirements of the T&I SEPP as outlined in Part 3 and Schedule 8.

3.2.7 Hornsby Local Environmental Plan 2013

The relevant local environmental plan applying to the site is the Hornsby Local Environmental Plan 2013 ('HLEP'). The aims of the HLEP include:

- (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) *to facilitate development that creates—*
 - (i) *progressive town centres, thriving rural areas and abundant recreation spaces connected by efficient infrastructure and transport systems, and*
 - (ii) *a well-planned area with managed growth to provide for the needs of future generations and people enriched by diversity of cultures, the beauty of the environment and a strong economy,*
- (b) *to guide the orderly and sustainable development of Hornsby, balancing its economic, environmental and social needs,*
- (c) *to permit a mix of housing types that provide for the future housing needs of the community near employment centres, transport nodes and services,*
- (d) *to permit business and industrial development that meets the needs of the community near housing, transport and services, and is consistent with and reinforces the role of centres within the subregional commercial centres hierarchy,*
- (e) *to maintain and protect rural activities, resource lands, rural landscapes and biodiversity values of rural areas,*
- (f) *to provide a range of quality passive and active recreational areas and facilities that meet the leisure needs of both the local and regional community,*
- (g) *to facilitate the equitable provision of community services and cultural opportunities to promote the well being of the population of Hornsby,*
- (h) *to protect and enhance the scenic and biodiversity values of environmentally sensitive land, including bushland, river settlements, river catchments, wetlands and waterways,*
- (i) *to protect and enhance the heritage of Hornsby, including places of historic, aesthetic, architectural, natural, cultural and Aboriginal significance,*
- (j) *to minimise risk to the community in areas subject to environmental hazards, including flooding and bush fires.*

The proposal is consistent with these aims as the proposal provides residential accommodation, and community facilities in proximity to Pennant Hills town centre and provides for the needs of future generations.

The development provides for managed growth to provide for the needs of future generations by supplying additional educational facilities.

3.2.7.1 Zoning and Permissibility

The site is located within the R2 Low density residential zone pursuant to Clause 2.2 of the HLEP.



Figure 5: Extract of Zoning Map

Objectives of the Zone

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

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

The proposal is considered to be consistent with these zone objectives for the following reasons:

- The proposal contains accommodation for 9 residents.
- The proposal provides educational and community facilities to meet the day to day needs of residents.

Community Facility

It is proposed to construct a community facility on No. 26 Yarrara Road. The community facility is permissible with consent in the R2 zone.

A community facility means a building or place—

- (a) *owned or controlled by a public authority or non-profit community organisation, and*
- (b) *used for the physical, social, cultural or intellectual development or welfare of the community,*

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

The community facility would be operated by the Association for Educational Projects Ltd (AEPL), a non-profit organisation and would provide for the physical, social, cultural and intellectual development of the community by providing services to women, including high school students, youth groups and mothers. Therefore, the proposed development on 26 Yarrara Road is considered to meet the definition of a community facility.

Educational Establishment

On 22 October 2009, Council approved DA/1494/2008 for an educational establishment on Nos. 1-3 Stevens Street. At this time, Hornsby Shire Local Environmental Plan 1994 (HSLEP) was in effect.

Pursuant to the HSLEP the site was zoned Residential A (Low Density). Educational establishments were permissible in the Residential A zone and were defined as:

educational establishment means a building or place used for education (including teaching) and includes:

- a) *a school, and*
- b) *a tertiary institution, being a university, a TAFE college (within the meaning of the Technical and Further Education Commission Act 1990), teachers' college, technical college or other tertiary college providing formal education which is constituted by or under an Act, and*
- c) *an art gallery or museum that is not used to sell the items displayed in it,*
whether or not accommodation for staff or students, or both, is provided and whether or not used for the purpose of gain.

On 11 October 2013, Hornsby Local Environmental Plan 2013 (HLEP) commenced operation.

Under the HLEP, educational establishments are permissible in the R2 Low density residential zone. The current definition of educational establishment is as follows:

educational establishment means a building or place used for education (including teaching), being—

- (a) *a school, or*
- (b) *a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act*

The current definition of educational establishment no longer provides for the accommodation of staff. Further the definition of school under the HLEP means a government school or non-government school within the meaning of the *Education Act 1990*. The proposed educational establishment does not meet this definition.

Therefore, it was important to determine whether the educational establishment on Nos. 1-3 Stevens Street benefited from existing use rights under Division 4.11 of the EP&A Act. To this end, the Applicant was requested to provide legal advice regarding the permissibility/ existing use rights of the educational establishment.

Applicant's Legal Advice

The Applicant submitted legal advice prepared by Holding Redlich (dated 30 August 2023) to support their assertion of existing use rights. As part of their legal advice, Holding Redlich provided the following:

The 'educational establishment' use of the Stevens Street Property under the 2008 Consent - with teachers accommodation - is clearly an 'existing use' under s 4.65 of the EP&A Act.

As a result, by force of EP&A Act s 4.66(1), nothing in the EP&A Act or the Hornsby LEP 2013 'prevents the continuance' of that existing educational establishment use, with teachers accommodation, at the Stevens Street Property.

That existing use may be enlarged, expanded or intensified under a development consent, in accordance with the EP&A Regulation.

Council's Legal Advice

Council arranged for legal advice by Holding Redlich to be reviewed by Marsdens Law Group (5 February 2024). Marsdens Law Group advised that:

- The study centre at No. 1-3 Stevens Street is permissible as an existing use prohibited under HLEP (subject to confirming the extent of the land to which the existing use relates) or a community facility, which is permissible with consent in Zone R2 under HLEP.
- The community facility at No. 26 Yarrara Road is permissible as a community facility with consent in Zone R2 under LEP.

Lot Consolidation

It is proposed to consolidate the 1-3 Stevens Street and 26 Yarrara Road. Marsdens Law Group in their advice dated 5 February 2024 provided advice regarding whether it was feasible to consolidate the two lots, notwithstanding the existing use rights provisions appurtenant to 1-3 Stevens Street.

The imposition of a condition on any development consent granted to the development application requiring the two lots to be consolidated would serve the practical purpose of ensuring that the land containing the study centre/accommodation and community facility could not be disposed of separately and would appear reasonable given the facilities shared between the developments.

Council supports the legal advice provided by Holding Redlich and Marsden's Law Group and are satisfied that the development on 1-3 Stevens Street can proceed under existing use rights, that the community facility on 26 Yarrara Road is permissible in the R2 zone with development consent, and that consolidation of the lots would not have an adverse legal implication regarding existing use rights.

A summary of the key matters for consideration and non-compliances arising from the relevant EPIs are outlined in Table 3. The pre-conditions to the grant of the consent have been considered and are outlined in bold.

3.2.7.2 Assessment of Existing Use Rights - Fodor Investments v Hornsby Shire Council [2005] NSWLEC 71

Due to the proposed use not being permissible in the zone, an assessment of the suitability of the development cannot be undertaken in accordance with the prescriptive requirements of the T&I SEPP, HLEP or most of the Hornsby Development Control Plan (HDCP) (some assessment against the HDCP is possible, this is provided in Part 6.5 of this report).

Consequently, a merit assessment is required.

The principles to be considered when undertaking a merit assessment of a proposed redevelopment of a site with existing use rights were dealt with by Roseth SC in *Fodor Investments v Hornsby Shire Council* [2005] NSWLEC 71. Roseth SC found that four questions usually arise in the assessment of existing use rights developments. These four questions comprise the Planning Principle for assessing such developments. An assessment of this application against this planning principle is provided below:

Table 6: Planning principle: Assessment of proposals on land with existing use rights

Question	Assessment
How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?	The main building is a pavilion style giving the appearance of two attached dwellings reducing by the bulk and scale of the development. The skillion roof room minimises the height and bulk of the development. The community facility on 26 Yarrara Road is similar in bulk and scale of a two-storey dwelling house.
What is the relevance of the building in which the existing takes place?	The building on 1-3 Stevens Street would continue to operate as an educational establishment with staff accommodation. The bulk and scale of the structure is considered to be acceptable.
What are the impacts on adjoining land?	Impacts arising from the development are likely to be negligible and confined to the construction period only (noise etc.). Subject to conditions, it is expected that there would be minimal amenity impacts to adjoining properties.
What is the internal amenity?	The proposal would contribute to a positive internal amenity by providing a purpose-built facility with extensive landscaping, raised pathways and ramps providing accessibility throughout the site, and buildings with a soft colour palette creating a relaxed and comfortable built environment.

As discussed in Section 3.2.7.1 of this report, legal advice has been provided by both the Applicant and Council's legal representative confirming existing use rights. The proposal is consistent with the Planning Principle for assessing existing use rights as expressed in *Fodor Investments v Hornsby Shire Council* [2005] NSWLEC 71.

3.2.7.3 General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in Table 7 below.

Table 7: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Height of buildings (CI 4.3(2))	Max.8.5m	Lift Overrun = 8.5m	Yes

		Roof = 8.3m	
FSR (CI 4.4(2))	N/A	N/A	N/A
Heritage (CI 5.10)	Adj.to heritage item	No impact	Yes
Flood planning (CI 6.3)	N/A	N/A	N/A
Earthworks (CI 6.2)	Matters to consider	Complies	Yes

The proposal is considered to be generally consistent with the HLEP.

3.2.7.4 Earthworks

The objective of Clause 6.2 Earthworks of the HLEP is to ensure that earthworks for which development consent is required would not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

A Bulk Earthworks Cut and Fill Plan was submitted as part of the civil engineering plans submitted with the original documentation. 815m³ or an estimated 1,100 tonnes of excavated material, being between 35-40 expected truck movements would be removed from the site and disposed of at a registered landfill site.

A maximum depth of up to 3m of excavation and 1.6m height of fill are proposed. As the majority of these earthworks are confined the building footprint, the earthworks are considered to be relatively minor in scale.

A retaining wall up to 1.2m high is proposed at the front of the site (Stevens Street frontage). Retaining walls are also proposed around basement stairs.

An Earthworks (Cut and Fill) Report would be required to be submitted prior to the commencement of works and would provide additional detail regarding the volume of cut and fill proposed.

A condition of consent would require a dilapidation report to be submitted to detail the physical condition, both internally and externally adjoining properties at Nos. 28 Yarrara Road and 5 Stevens Street prior to the issue of the issue of the Construction Certificate.

It is considered that the proposed earthworks would not have any detrimental impacts on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The proposal is generally consistent with Clause 6.2 Earthworks of the HLEP.

3.3 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

The relevant EPI's are outlined in Section 3.1 of this report. There are no proposed instruments that require consideration under this application.

3.4 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- Hornsby Development Control Plan 2013 ('the DCP')

The HDGP applies to all land within Hornsby Shire and came into effect on 11 October 2013.

Educational Establishment

As discussed in Section 3.2.7.2 of this report, the educational establishment on Nos. 1-3 Stevens Street relies on existing use rights therefore the built form controls of Part 1 and Part 7 of the HDCP are not strictly applicable. However, the relevant general provisions within Part 1, and 7 of the HDCP are applicable to the development. This includes provisions relating to tree preservation, biodiversity, stormwater management, earthworks and slope, noise and vibration, earthworks and slope, and car parking and traffic. These matters are considered throughout this report.

Community Facility

There are no existing use rights applicable to the community facility on No. 26 Yarrara Road. Therefore, a full assessment of the general provisions and built form controls of Part 1 - General and Part 7.1 Community Uses of the HDCP has been undertaken.

3.4.1 Biodiversity

The desired outcomes of Part 1C.1.1 Biodiversity of HDCP are “*Development that provides for the conservation of biodiversity including threatened species and populations, endangered ecological communities, remnant indigenous trees, regionally and locally significant terrestrial and aquatic vegetation*” and “*Development that maintains habitat for native wildlife and wildlife corridors to provide for the movement of Populations of threatened flora species, habitat 10m for threatened species, locally significant bushland, groups of remnant indigenous trees fauna species*”.

A Flora and Fauna Assessment Report was prepared by Narla Environmental (dated September 2023) in support of this development application.

The Flora and Fauna assessment has identified Blue Gum High Forest (BGHF) as the dominant vegetation community within the subject site. No BGHF trees are proposed for removal under this proposal.

Council's Natural Resource Officer has assessed the Flora and Fauna Assessment Report and provides the following commentary:

The Arboricultural Impact Assessment identifies that tree 18, 20-23 and 25 are to be retained. These trees would experience TPZ and SRZ encroachment however the report proposes that sensitive construction techniques would be adequate to allow retention. Excavation for the basement carpark is the primary concern, so tree related conditions would be paramount in protecting this stand of BGHF trees.

To offset the loss of mixed native/exotic vegetation in the understorey, select mid-storey species from the BGHF community should be incorporated into the landscape planting. Following previous recommendations, the planting schedule includes two Backhousia myrtifolia, two Elaeocarpus reticulatus and ten Breynia oblongifolia. This satisfies the requirement to include locally indigenous BGHF species in the future landscaping and bolsters local BGHF vegetation integrity.

Council's Natural Resources Officer concluded that the proposal does not require the removal or modification of a significant area of vegetation or habitat, is generally consistent with the Biodiversity element of HDCP and would not have a significant impact on matters listed under the NSW BC Act 2016.

The on-site tree removal and protection measures of retained trees comply with the desired outcomes of Part 1C.1.1 of HDCP. Subject to conditions, the proposal complies with the desired outcomes of Part 1C.1.1 of HDCP and is considered acceptable.

3.4.2 Tree Preservation

Part 1B.6 Tree and Vegetation Preservation of HDCP requires the consent of Council to remove trees protected by the HDCP.

A total of 19 and one group of trees would be removed by the development numbered 1-10 inclusive, 16, 17, 19, 26, 29, 33, 34, 35, 36 and G1. Trees 18, and 20-25 would be impacted by the development.

The trees would be removed to facilitate construction of the building footprint, retaining walls, hard paving, and stormwater infrastructure.

An Arboricultural Impact Assessment (AIA) and Tree Location Plan were provided by Urban Arbor Pty Ltd dated 30 August 2023 in support of this development application.

A Root Mapping Investigation Report was also prepared by Urban Arbor Pty dated 30 November 2023. The proposal indicates the use of cut and fill to facilitate grade changes of up to 2m in the Tree Protection Zone (TPZ) for trees numbered 18 and 20-25. This would result in the potential removal of a significant amount of root plate material adversely affecting tree stability and longevity.

Council's Tree Assessment Officer assessed the Arboricultural Impact Assessment (AIA) and the Root Mapping Investigation Report and found these documents to be satisfactory.

Council's Tree Management Officer considered the incursion into the TPZ of trees numbered 18 and 20-25 acceptable if being used in conjunction with tree sensitive construction methods. Conditions have been included in the consent requiring tree sensitive construction methods.

The applicant proposes to connect to the drainage easement burdening Nos. 28 and 52-54 Yarrara Road. No works are proposed within the drainage easement and therefore there would be no impact on trees within the drainage easement.

A condition of consent requires the replacement planting of a minimum of 20 trees. A landscape plan has been prepared by Inviewdesign (dated 7 December 2023) which includes a total of 49 replacement trees, as well as 269 shrubs. Council's Tree Management Officer considers that the planting palette as specified on the Landscape Plans is acceptable for this condition. It is considered that the replacement tree planting more than sufficiently offsets the removal of the 19 trees.

Subject to conditions, the proposal complies with Part 1B.6 Tree and Vegetation Preservation of HDCP and is considered acceptable.

3.4.3 Stormwater

The desired outcomes of Part 1C.1.2 Stormwater Management of HDCP are to encourage *"development that protects waterways from erosion, pollution and sedimentation, and maintains or improves water quality and aquatic habitats"* and *"water management systems that minimise the effects of flooding and maintains natural environmental flows"*.

Civil engineering plans prepared by Eclipse Consulting Engineers (dated 31 August 2023) were submitted in support of the development application.

DRAINS models have been prepared for this project. The post-development from each lot have been reduced to limit them to the pre-developed flows.

It is proposed to connect the stormwater drainage for the site to an existing easement to drain water over 28 Yarrara Road and 52-54 Yarrara Road discharging to Willis Avenue. It was initially identified that the the inlet/junction pits within the easement were identified as being in very poor condition and would need to be rebuilt as part of the easement works. However, upon further investigation, it has

been concluded that the existing drainage system does not require any upgrading and hence this has been removed from the concept stormwater plans.

The educational establishment on existing Lot 12 (Nos. 1-3 Stevens Street) would be connected directly to Council's street drainage system in Stevens Street and the community facility on existing Lot 13 (No. 26 Yarrara Road) would be drained to the existing inter-allotment drainage system burdening Nos. 28 Yarrara Road and 52-54 Yarrara Road.

The development application was assessed by Council's engineering assessment raised no objections to the proposal subject to the recommended conditions of consent.

The proposal complies with the desired outcomes of Part 1C.1.2 Stormwater Management of HDCP and is considered acceptable.

3.4.4 Earthworks and Slope

The desired outcomes of Part 1C.1.4 Earthworks and Slope of HDCP are *"development that is designed to respect the natural landform characteristics and protects the stability of land"* and *"development that limits landform modification to maintain the amenity of adjoining properties and streetscape character"*.

These desired outcomes are supported by prescriptive controls requiring that development be sited on the area of land presenting the least topographic constraints and away from ridge lines, and that cut and fill outside the building platform be limited to 1.0 metre in depth.

1-3 Stevens Street has a slope of 3.16m (5%) with its lowest point at the northwestern corner of the lot. 26 Yarrara Road has a slope of 3.38m (6.8%) sloping down to the rear of the site (northwestern boundary).

A bulk earthwork cut and fill plan was provided with the engineering drawings prepared by Eclipse Consulting Engineers (dated 25 March 2024). A maximum of 3m of excavation would be required to facilitate construction of the basement. A maximum of 2.2m of fill would be required to the northeastern corner of the proposed community facility. The majority of excavation and fill would be contained to the building footprint.

Minor earthworks would be required to facilitate landscaping. Retaining walls would be incorporated into proposed landscaping for the site. A retaining wall containing fill 1.2m high is proposed at the front of the site towards the Stevens Street frontage. Conditions have also been included in Attachment A requiring civil engineering details of retaining walls on site.

The Preliminary Demolition and Construction Management Plan (dated 15 August 2023) submitted with this development application identifies that 815m³ or an estimated 1,100 tonnes of excavated material would be removed from the site, being between 35- 0 expected truck movements. The excavated material would be disposed of to a registered landfill.

A Geotechnical Investigation Report was prepared by Geo Engineering Pty Ltd (dated 27/11/2023) in support of the development application. A condition of consent requires a certificate prepared by a suitability qualified geotechnical engineer is to be provided to the Principal Certifying Authority (PCA) certifying the completion of all works required by the Geotechnical Investigation Report prior to the issue of the Occupation Certificate

Public submissions were required in relation to geotechnical stability of adjoining properties, given the vibration required to excavate the basement. A condition is recommended to be included in the consent to require a dilapidation report.

Subject to conditions, the proposal generally complies with the desired outcomes of Part 1C.1.4 Earthworks and Slope of HDCP and is considered acceptable.

3.4.5 Waste Management

The desired outcomes of Part 1C.2.3 Waste Management of HDCP are to encourage “*development that maximises re-use and recycling of building materials*” and “*waste storage and collection facilities that are designed to encourage recycling, located and designed to be compatible with the streetscape, accessible, clean and safe for users and collectors*”.

Waste collection would continue to utilise standard Council waste collection services. The site is currently serviced using side loading waste collection vehicles, this is not proposed to change.

A condition of consent would require the site to be consolidated of the site prior to the issue of the Occupation Certificate. This would enable effective waste servicing of the site via the shared waste storage area on Yarrara Road.

Subject to conditions, the proposal generally complies with the desired outcomes of Part 1C.2.3 Waste Management of HDCP.

3.4.6 Noise and Vibration

The desired outcomes of Part 1C.2.4 Noise and Vibration of HDCP are to encourage “*development designed and managed to minimise noise and vibration impacts on the occupants of residential dwellings and other noise sensitive land uses*”.

Part 1C.2.4 of the HDCP contains prescriptive controls for construction noise management, noise sensitive development, and noise generating development.

A Noise and Vibration Assessment prepared by Pulse White Noise Acoustics, (dated 2 August 2023 (the Acoustic Report) was submitted in support of application. The Acoustic Report assessed the potential for airborne and ground-borne noise intrusion from Yarrara Road and the Northern Railway Line, as well as operational impacts from the proposed development. The acoustic assessment concluded that:

- Airborne noise intrusion into the development from the rail corridor and roads is predicted to comply with the internal noise levels nominated in Section 4.2 of the Acoustic Report, if the recommendations of the Acoustic Report are carried out.
- Given the proposed use, operational noise is considered to be compliant with the relevant industry noise policy.
- Operational noise control measures are detailed in Section 6.7.1 of the Acoustic Report. This includes a recommendation that outdoor noise from amplified music/ parties are not permitted.

A Demolition and Construction Management Plan has been submitted in support of this development application. The Demolition and Construction Management Plan commits to complying with the Department of Environment and Climate Change NSW's Interim Construction Noise Guidelines (ICNG) which contains guidelines for identifying and minimising noise from construction, ensuring construction only be undertaken during approved hours of construction, and implementing site specific feasible and reasonable work practises to minimise noise impacts.

As the proposal only increases the site occupancy by four staff, and five students, the increase in operational noise compared to the existing facility is considered to be minimal.

Operational noise would be managed through the Operational Plan of Management. The Operational Plan of Management makes a commitment to comply with the principles of the Acoustic Report,

particularly “Operational Noise Control Measures - Outdoor Private Space”. A recommendation of the Acoustic Report requires the construction of a 1.8m high acoustic barrier along the rear perimeter of the subject site (along the common boundaries with Nos. 1 Willis Avenue, 28 Yarrara Road and 5 Stevens Street).

Council’s Environmental Protection Officer has reviewed the Noise and Vibration Assessment, Demolition and Construction Management Plan, and Operational Plan of Management and has found the documents to be satisfactory.

Subject to conditions, the proposal complies with the desired outcomes of Part 1C.2.4 Noise and Vibration of the HDCP and is considered acceptable.

3.4.7 Transport and Parking

The desired outcomes of Part 1C.2.1 Transport and Parking of HDCP are to encourage “*car parking and bicycle facilities that meet the requirements of future occupants and their visitors*” and “*development with simple, safe and direct vehicular access*”.

To address Part 1C.2.1 Transport and Parking of HDCP, a Traffic and Parking Assessment was prepared by McLaren Traffic Engineering & Road Safety Consultants (dated 3 August 2023).

Part 7.1.7 Vehicle Access and Parking of the HDCP also applies to the development. The prescriptive controls for educational establishments under Part 7.1.7 of HDCP include “*separate pedestrian and vehicular access should be provided from the public domain to the community use*”, “*driveways should incorporate a set down/pick up area for students*”, and “*educational establishments should be designed to incorporate provisions for bus services*”.

3.4.7.1 Car Parking

It is proposed to construct 12 car parking spaces within a basement under the educational establishment on Nos. 1-3 Stevens Street. A condition of consent would require the consolidation of the lots, and therefore these car parking spaces would also be available to the community facility.

As the educational establishment relies on existing use rights, the car parking provisions of the HDCP do not strictly apply to the educational establishment. The car parking controls under HDCP have been used as a guide in this instance.

Pursuant to DA/1494/2008, five staff and up to 15 students were permitted on site at any one time. Five car parking spaces were provided.

The Traffic and Parking assessment considers the car parking rate under Part 1 of HDCP, of 0.75 car parking space per each one bedroom medium density dwelling (seven spaces) as well as one visitor space per seven dwellings (two spaces). Seven car parking spaces plus five visitor carparking spaces are provided. Therefore, sufficient car parking has been provided to satisfy the minimum car parking requirement under the HDCP.

Only three resident volunteers would be present on site during operational hours. Other resident volunteers are expected to be engaged in employment or study off-site during operational hours. Therefore, providing additional carparking for students during the day. External staff members such as cleaners and caterers would attend the site when no activities are scheduled in either facility.

There would be up to 20 students on site at any one time. As students would be between the ages of 11 and 20 years old, many of these students are expected not to be of driving age. These students would be expected to rely on public transport or care givers dropping them off in the driveway loop at the front of the site. Bump-in/ bump out times between scheduled activities on the site would assist in

ensuring that maximum student numbers are not exceeded. Students who drive to the site would need to book car parking on the site.

The Eremeran Parking Policy was prepared in support of this development application. The Eremeran Parking Policy details that students who book a car parking space in the basement would be issued a permit. The booking would only be valid for the time that the student is engaged in activity on the site. The Eremeran Study Centre would keep a register of their student drivers in the event the centre needs to contact them regarding their driving or parking conduct.

The Applicant also submitted a Green Travel Plan to encourage students to travel by public transport or walk to the site where possible. The policy outlines the availability of nearby public transport including a bus timetable. The policy also encourages travel to the site via bicycle. Four bicycle spaces are provided within the basement. Other initiatives of the Green Travel Plan include providing pre-loaded Opal Cards to staff and students dedicated to public transport use. Students would be enrolled in sessions with other students by home address, to assist in the use of public transport.

There is no independent car parking proposed for the community facility. Therefore, a condition of consent would require the consolidation of the lots prior to the issue of an Occupation Certificate for works on the site. The community facility and educational establishment would not operate concurrently. That is, when activities are planned with the educational establishment, no activities would be booked in the community facility. Therefore, shared car parking can be achieved between the two facilities. A condition is recommended in Attachment A restricting the hours of use for both the educational establishment and the separate community facility to ensure there are no parking conflicts when each use is operating.

The largest vehicle expected to access the site for deliveries is anticipated to be an Australian Standard B99 vehicle (i.e., delivery van) which would temporarily stop on-site or within the available nearby on-street parking as per typical residential operations.

Deliveries to the site are expected to be infrequent and would typically occur outside of peak drop-off / pick-up times during the week. As such, the dedicated drop-off / pick-up zone on the one-way loop roadway could be used as a loading bay outside of peak operating hours (i.e., outside of the hours of 3pm - 6pm on weekdays during the school term and 10am - 6pm on weekdays during the school holidays).

Council's traffic assessment raised no objection to the proposed development subject to compliance with the recommended conditions of consent.

The proposal generally complies with the desired outcomes of Part 1C.2.1 Transport and Parking of HDCP and is considered acceptable.

3.4.7.2 Traffic and Access

Traffic

The proposal is not considered to be traffic generating development. Stevens Street and Yarrara Road are unclassified regional roads. Therefore, the development does not require concurrence from Transport for NSW under SEPP (Transport and Infrastructure) 2021.

The proposal would result in four additional staff and five additional students.

A Traffic Report prepared by McLaren Traffic Engineering, 30 August 2023 and addendum dated 17 November 2023 were submitted in support of the application.

The proposal is likely to result in a net increase of two additional vehicle trips in the morning and twelve additional vehicle trips in the afternoon/evening. This level of traffic is minimal and is not

expected to result in noticeable impact to the surrounding road network. Further, students are expected to arrive and depart the site outside of peak commuter periods and are to utilise public transport facilities within the vicinity of the site further reducing the traffic generation from the proposed development.

Public submissions raised concerns regarding the potential for increased traffic additions at the intersection of Stevens Street and Yarrara Road. However, according to the Transport for NSW (TfNSW) Interactive Crash Statistics Map, there is no cluster of accidents that would warrant safety review or upgrade of the road environment. There is no requirement to upgrade the road environment as a result of the proposed development.

The Traffic Report was reviewed by Council's Traffic Engineer who has no objections to the proposal subject to compliance with the recommended conditions of consent.

Pedestrian access

During demolition and construction, the facility would be non-operational. To enable pedestrian access for the public, the existing pedestrian footpaths along the site frontages of Stevens Street and Yarrara Road would remain open. There is another footpath on the northern side of Stevens Street where pedestrians can safely cross at the signalised pedestrian crossing at the corner of Stevens Street and Yarrara Road.

A recommended condition of consent requires a Pedestrian Access Management Plan (PAMP) detailing how pedestrian movements would be changed and managed during various stages of development, particularly during any partial or total closure of footpaths. Council would review the PAMP, agree to any modifications with the proponent and enforce the PAMP during construction. This plan would form part of the Construction Management Plan for the development.

The intersection of Stevens Street and Yarrara Road is a signalised intersection was pedestrian crossing. During operation, separate and clearly delineated pedestrian entrances would be provided to the site on Yarrara Road directly from the pedestrian footpath on Yarrara Road. The pedestrian entries are sufficiently separated from vehicular access points, to avoid vehicle/ pedestrian conflict.

Council's Traffic Engineer has assessed the development application and has no objections subject to compliance with the recommended conditions of Consent.

The proposal generally complies with the desired outcomes of Part 1C.2.1 Transport and Parking of HDCP and is considered acceptable.

3.4.8 Part 7 Community

Part 7 Community of the HDCP provides guidelines for the development of land for schools. Part 7.1 includes controls for minimum site width, location of schools in proximity to significant noise, dust or odour generating uses, scale, setbacks, landscaping, open space, privacy, security and sunlight, vehicle access and parking.

In residential zones, community facilities (including educational establishments) are required to comply with the scale, setbacks and site coverage controls within Part 3.1 of HDCP.

The educational establishment on Nos. 1-3 Steven Street relies on existing use rights and therefore strict compliance with the numerical controls within Part 7.1 of the HDCP is not required. A merit based assessment of the education establishment against Part 7.1 the HDCP has been undertaken in Table 8 below.

Table 8: Consideration of the HDCP Controls (Educational Establishment - Guideline Only)

Hornsby Development Control Plan 2013 - Part 7 Community Uses			
Control	Proposal	Requirement	Comply
Site Area	1,703m ²	N/A	N/A
Site Width	32m	Min 60m	No
Building Height	8.5m	8.5m	Yes
Site Coverage	38%	Max 30%	No
Floor Area	915m ²	Max 430m ²	No
Recreation Space	26.3m ² per child (473.6m ²)	20m ² per child (400m ²)	Yes
Landscaping	27 %	Min 45%	No
Setbacks			
- <i>Front</i>	7.1m	7.6m	No
- <i>Rear</i>			
- <i>Ground Floor</i>	10mm	3m	No
- <i>First Floor</i>	10mm	8m	No
- <i>Secondary Street</i>	3m	3m	Yes
- <i>North Western Side</i>			
- <i>Ground Floor</i>	3.1m	2m	Yes
- <i>First Floor</i>	20m	3m	Yes
- <i>Rear</i>	10mm	8m	No

The community facility on No. 26 Yarrara Road is a permissible land use within the R2 Low density residential zone and therefore the numerical controls of Part 7.1 of the HDCP apply to the community facility.

Table 9 provides an assessment of the community facility against the numerical controls of Part 7.1 of HDCP.

Table 9: Consideration of the HDCP Controls (Community Facility)

Hornsby Development Control Plan 2013 - Part 7 Community Uses			
Control	Proposal	Requirement	Compliance
Site Area	765.1m ²	N/A	N/A
Building Height	7.8m	8.5m	Yes
<i>Landscaping</i>	55%	Min 30%	Yes

Site Coverage	24%	Max 50%	Yes
Floor Area	196m ²	Max 430m ²	Yes
Setbacks			
- Front	8.7m	7.8m	Yes
- Southwestern Side	900mm	2m	No
- North Western Side	2.5m	2m	Yes
- Rear			
- Ground Floor	17.9m	3m	Yes
- First Floor	17.9m	8m	Yes

The proposal's non-compliance with relevant controls of Part 7 Community of the HDCP is discussed below.

3.4.8.1 Site Requirements

The desired outcomes of Part 7.1.1 Site Requirements of HDCP are “*community uses with a site area that contributes to the achievement of desired urban design outcomes*” and “*community uses located to be readily accessible to users, promote the health and safety of the future occupants of the facility and minimise potential land use conflicts*”.

The minimum site width under Part 7.1.1 Community Uses of the HDCP is 60m. The site is oriented to Stevens Street and has a width of 32m. The proposal replaces an existing approved educational establishment and relies on existing use rights. The proposal has sufficient lot width to enable separate vehicle entry and exit to the site. Sufficient deep soil planting is proposed to the side setbacks.

The maximum site coverage on site over 1500m² under Part 3.1.1h Scale of the HDCP is 30%. The educational establishment has a site coverage of 38%. It should be noted that after the lots are consolidated, the site coverage of the consolidated lot would be 32%.

The maximum floor area under Part 3.1.1j Scale of HDCP is 430m². The educational establishment would have a floor area of 915m². However, the educational establishment relies on existing use rights and strict compliance with the numerical control is not required. The Applicant has located residential floor space away from adjoining residential properties to reduce amenity impacts on adjoining properties. The development immediately adjoining residential properties is single storey or split level, reducing the visual and amenity impacts to the neighbouring properties.

The proposal generally complies with the desired outcomes of Part 7.1.1 Site Requirements of the HDCP is considered acceptable.

3.4.8.2 Scale

The desired outcome of Part 7.1.2 of HDCP is to encourage “*development with a height, scale and intensity that is compatible with the character of the area*”. This desired outcome is supported by the prescriptive control that in the R2 Low density residential zone apply the height and site controls for

dwelling houses in Part 3.1 of the HDCP. Under Part 3.1 of the HDCP, the floor level of the lowest residential storey of a dwelling house is to be sited a maximum of 1.5m above natural ground level.

The ground floor of the community facility would be sited 2.5m above an undercroft. The ground floor level of the educational facility would be sited 2.3m above natural ground level. This is a result of the height of the basement driveway. The site has a slight cross-fall, and the driveway entry is located at the lowest point of the site.

A new path and stairs are proposed adjacent to the basement wall with an interface of plants between the path and the communal open space area. The planting would provide a visual buffer between the basement wall and the outdoor open space, and this outcome is considered satisfactory.

The proposal complies with the overall height of the desired outcome of Part 7.1.2 of HDCP and is considered acceptable.

3.4.8.3 Setbacks

The desired outcomes of Part 7.1.3 Setbacks of the HDCP are to encourage “*setbacks that are compatible with adjacent development and complement the streetscape*”, and “*setbacks that allow for the retention of significant landscape features and respect site constraints*”.

These desired outcomes are supported by prescriptive controls requiring community facilities (including educational establishments) within the R2 Low Density Residential Zone to comply the setback controls for dwelling houses within Part 3.1 Dwelling Houses of HDCP except for purpose built centres when the minimum side setback should be 2m.

Community Facility

The community facility generally complies with the prescriptive controls of Part 7.1.3 Setbacks of the HDCP with the exception of the northwestern side setback. Purpose built community facilities are required to have a minimum side setback of 2m. An external staircase has a setback of 900mm from the southwestern side boundary. It is proposed to setback the southwestern elevation of the building 1.5m from the boundary which is consistent with the setback of two storey dwelling houses in the R2 Low density residential zone. The rear half of the community facility is proposed be setback 2.1m from the southwestern side boundary and is therefore compliant. The site is narrow, being only 15.5m wide. Due to the slope of the site, the building has the appearance of a single storey building from the street. A 1.8m high acoustic fence is required to be constructed along the southwestern side boundary of the site, to provide acoustic relief to the adjoining property owners. Three of the windows proposed along this elevation are highlight windows which minimise overlooking into the adjoining property. The window to Meeting Room 2 would look towards the garage on the adjoining property and therefore there are no privacy issues resulting from the windows along the southwestern elevation.

Educational Establishment

The educational establishment does not comply with the minimum rear setback control of 3m for the ground floor and 8m for the first floor. However, the educational establishment relies on existing use rights, and therefore the numerical controls of HDCP do not strictly apply in this instance. Notwithstanding the current non-compliance, the lots are to be consolidated prior to the issue of the Occupation Certificate and this non-compliance would cease to exist.

Part 3.1.2 of the HDCP requires a front setback of 6m, except on local roads where an existing setback of 7.6m or greater exists. In this instance the proposed building along the Steven Street replaces buildings which are currently setback 11.4-11.7m from the front property boundary. The

neighbouring dwelling house on No. 5 Stevens Street is setback from its respective front property boundary by 12m. Therefore, it is reasonable to apply a 7.6m front setback as a guideline in this instance. The Stevens Street frontage incorporates landscaping and canopy trees including three Luscious Water Gum trees, and a native frangipani. A condition of consent requires at least one street tree on the Stevens Street frontage.

The proposal generally complies with the desired outcomes of Part 7.1.3 Setbacks of the HDCP and is considered acceptable.

3.4.8.4 Design Details

The Desired Outcome of Part 7.1.8 Design Details is to encourage *“development that complements the streetscape”*. This desired outcome is supported by prescriptive controls that *“building design should complement the desired future character of the zone, and include consideration of setbacks, materials, textures and colours, scale of building, height and bulk, roof form, pitch, landscaping, facades, window placement, fences and driveways, street trees, and balance between solid walls and openings”*.

To support the desired outcomes, prescriptive controls require that *“buildings should provide elevations that address the street. Buildings on corner allotments should be designed to address both street frontages”* and that *“roof fixtures and lift overruns or service plants should be incorporated into the design of the roof to minimise visual intrusiveness and support an integrated building design”*.

A condition of consent is recommended to require a minimum of one large native canopy tree such as *Angophora costata* (Red Gum) and/ or *Syncarpia glomulifera* (Turpentine), to be installed within the Stevens Street front setback.

Attractive facades are provided to Yarrara Road and Stevens Street. An easily identifiable front entrance is provided on both street frontages. A soft comfortable colour palette is proposed which incorporates elements such as sandstone which harmonises with the mid-century dwelling houses in the vicinity.

While the lift overrun sits slightly above the roof, it is sufficiently setback from all property boundaries to reduce visual intrusiveness and complies with the maximum 8.5m development standard under the HLEP. The skillion roof has a low pitch which reduces the overall bulk and scale of the building. Redesigning the roof to incorporate the lift overrun would result in increased bulk and scale. The lift overrun has been designed with materials matching the front facade of the building.

The proposal generally complies with the desired outcome of Part 7.1.8 Design Details of the HDCP and is considered acceptable.

3.4.8.5 Landscaping

The desired outcomes of Part 7.1.4 Landscaping of HDCP to encourage *“landscaping that is compatible with the character of the locality”* and *“landscaping that retains existing landscape features”*. These desired outcomes are supported by prescriptive controls *“landscaping should be provided around the site to soften the development when viewed from adjoining land”* and *“that a minimum of 45% of the site is to be landscaped”*.

Landscape plans have been prepared by Inview Design Pty Ltd (dated 07/12/2023) in support of the application.

The prescriptive control of Part 7.1.4 requires that a minimum of 45% of the site is to be landscaped. 55% of the site at No. 26 Yarrara Road (the community facility) would be landscaped. This is well in excess of the required landscaping and is considered acceptable.

The educational establishment on Nos. 1-3 Stevens Street would contain 27% landscaping which is a non-compliance with the development control. However, this component of the development relies on existing use rights and strict compliance with the numerical control is not required.

Over the combined site (once consolidated), 38% of the site is proposed to be landscaped with turf and planting. However, the landscaping plan also includes a paved terrace, alfresco area, patio and courtyard which all provide areas for passive outdoor recreation.

Appropriate landscaping is proposed throughout the development site in order to replace removed vegetation, activate communal spaces, provide a stimulating outdoor environment and integrate the proposed development within the existing landscape. This includes a yarning circle and outdoor seating.

Native species including Sydney Red Gum, Grey Myrtle, Blueberry Ash, Crepe Myrtle and Luscious Water Gum are incorporated into the landscape plans.

The plans indicate the removal of a number of trees from the Steven Street frontage which are proposed to be replaced with small to medium sized trees. A condition of consent is recommended to require a minimum of one large native canopy tree such as *Angophora costata* (Red Gum) and/ or *Syncarpia glomulifera* (Turpentine), to be installed within the Stevens Street front setback.

The proposal generally complies with the desired outcomes of Part 7.1.4 Landscaping of the HDCP and is considered acceptable.

3.4.8.6 Privacy, Security and Sunlight

The desired outcomes of Part 7.1.6 Privacy, Security and Sunlight of the HDCP are to encourage “*development designed to provide reasonable privacy and sunlight to adjacent properties*” and “*development designed to provide high levels of security*”.

Privacy

The prescriptive control requires that “*for development at the interface of a residential area, development should encourage views from the community use to the horizon rather than downward onto residential areas*”.

The ground floor windows of the proposed educational establishment are to the library and quiet room. The quiet room window is divided into five narrow glazed panels separated by wide columns which affords appropriate privacy to the adjoining properties. The library window would be obscured by the carport on the adjoining property and is 10m from the dwelling house windows on the adjoining property.

The first floor residential floor is setback 20m from the boundary with the adjoining residential property on Stevens Street.

The proposed raised walkway is setback 15.7m from the boundary. The proposed building would obscure view of the raised walkway to the bedrooms on the neighbouring properties.

Screening along the northwestern boundary of Nos. 1-3 Stevens Street would include eight trees ranging between 5m and 10m in height.

Along the northwestern boundary of No. 26 Yarrara Road, four capital pear trees at a maximum height 11m would be planted to provide privacy from the community facility to the adjoining property.

A full length aluminium privacy screen has been added to the northeastern and south western elevation of balcony of the community facility of No. 26 Yarrara Road with a return on the western elevation.

Security

The prescriptive controls pertaining to security are to *“identify safe, clear and direct pedestrian and cyclist entrance to the building/s from the primary street frontage”* and *“windows and lobbies should be designed and oriented to overlook the street and communal open spaces on the site”*.

Both street frontages have easily identifiable building entries accessed by ramps and/or pathways. The proposal incorporates ground floor and first floor windows overlooking each street frontage.

The open style fence allows for direct view of the site including building entries to minimise concealment of illegitimate users of the site.

The proposal generally complies with the desired outcomes of Part 7.1.6 Privacy, Security and Sunlight of the HDCP and is considered acceptable.

Sunlight

Prescriptive controls under Part 7.1.6 Privacy, Security and Sunlight require that *“on 22 June, development should not overshadow more than 50% of adjacent public open space areas including parks and recreational facilities between 9am and 3pm”* and *“On 22 June, 50% of the principal private open space on any adjoining residential property should receive 3 hours of unobstructed solar access between 9am and 3pm”*.

The applicant has submitted shadow diagrams demonstrating that on 22 June, there would be no overshadowing to No. 5 Stevens Street to the northwest of the site. Some overshadowing would occur of No. 28 Yarrara Road. However, the occupants of No. 28 Yarrara Road would still retain 3 hours of unobstructed solar access between 9am and 3pm to more than 50% of their principal private open space.

The proposal generally complies with desired outcomes of Part 7.1.6 Privacy, Security and Sunlight of the HDCP and is considered acceptable.

3.4.9 Crime Prevention

The Desired Outcome of Part 1C.2.7 Crime Prevention is *“Development designed to reduce crime risk and minimise opportunities for crime”*. This desired outcome is supported by the prescriptive control requiring a CPTED assessment. A CPTED assessment (Safer by Design Evaluation) is required for large scale and/or crime sensitive development including Major commercial/ retail developments, major community facilities, and other high risk land uses.

The amended Statement of Environmental Effects (dated 17 November 2023) included an assessment against the principles of CPTED.

Some anti-social behaviour can be mitigated through the Plan of Management

A detailed assessment of CPTED Principles is provided in Section 3.7.11 below.

3.4.10 Plan of Management

A Plan of Management was prepared by Planning Ingenuity (dated 10 November 2023) in support of this development application. The intent of a Plan of Management is to demonstrate a strong commitment to good management of the operation of a business, particularly in relation to managing potential impacts on adjoining and surrounding land uses and premises, as well as the public domain.

The proposal has been assessed having regard to the Land and Environment Court's Planning Principle for Plans of Management, including the proposed complaints handling process.

The Land and Environment Court's Planning Principle established in *Renaldo Plus 3 Pty Limited v Hurstville City Council* regarding the adequacy and appropriateness of a plan of management is assessed below.

- *Do the requirements in the Management Plan relate to the proposed use and complement any conditions of approval?*
- *Do the requirements in the Management Plan require people to act in a manner that would be unlikely or unreasonable in the circumstances of the case?*
- *Can the source of any breaches of the Management Plan be readily identified to allow for any enforcement action?*
- *Do the requirements in the Management Plan require absolute compliance to achieve an acceptable outcome?*
- *Can the people the subject of the Management Plan be reasonably expected to know of its requirements?*
- *Is the Management Plan to be enforced as a condition of consent?*
- *Does the Management Plan contain complaint management procedures?*
- *Is there a procedure for updating and changing the Management Plan, including the advertising of any changes?*

An amended Plan of Management has been submitted by The Association of Educational Projects Limited (AEPL)(dated 10/11/2023). The amended Operational Plan of Management includes a detailed Complaint Management Procedure, as well as a detailed activity schedule.

The Plan of Management includes details on how the recommendations of the Noise and Vibration Report would be implemented during operation of the facility.

Due to the relatively small number of staff and students on site, it is considered that behaviour would be managed efficiently. This facility differs from other premises requiring a Plan of Management, as there would be limited members of public on the site (mothers' group), no service of liquor and a focus on passive educational, and community outreach activities which are innately quieter activities.

The Plan of Management contains a Complaints Management Policy and methodology for implementing changes to the Plan of Management. Compliance with the Operational Plan of Management would be enforced by the recommended conditions of consent.

Council's Environmental Protection Officer has assessed the Operational Plan of Management and found it to be satisfactory.

Hours of Operation

The draft conditions recommended in Appendix A (condition Nos. 87 and 88) include a requirement for compliance with the hours of operation specified in Appendix 2 of the Plan of Management. That is, that generally, the education establishment would operate in the mornings and after school. The community facility would operate during the day when students are at school. This ensures a capacity of a maximum of 20 students are permitted on site at any one time and that adequate car parking is provided for each of the proposed uses.

The Applicant reviewed the draft conditions prior to referral of the application to the Sydney North Planning Panel. The Applicant objected to the hours of operation imposed under Conditions Nos. 87 and 88 for the educational establishment and community facility respectively. The Applicant sought to amend both of the conditions to reflect Section 4.5 of the Plan of Management to allow both facilities to operate simultaneously as follows:

- *Monday - 8:30am to 8pm*
- *Tuesday to Thursday - 10am to 6pm*
- *Friday - 8:30am to 6pm*
- *Saturdays - 10am to 6pm (Third Saturday of the month 8pm)*
- *Sunday - Closed*

As discussed in Section 3.4.7.1 of this report, the proposed development relies on the car parking for both facilities (12 car parking spaces within a basement under No. 1-3 Stevens Street) to be shared between the two uses. Car parking for this development application was assessed on the basis that the community facility and educational establishment would not operate concurrently. That is, when activities are planned within the educational establishment, no activities would be booked in the community facility.

As such, the Applicant's request to amend Condition Nos. 87 and 88 to reflect concurrent operations of the educational establishment and the community facility is not supported.

Condition Nos. 87 and 88 are to remain as is, to restrict the facilities from running concurrently, to enable sufficient car parking to be provided to the development, avoid parking conflicts from the two separate uses and to avoid amenity impacts to the surrounding locality.

3.4 Section 7.12 Development Contributions Plan 2019-2029

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. This Contributions Plan has been considered and included the recommended draft consent conditions which require a contribution of 1% of the value of the proposed development.

3.5 Section 4.15(1)(a)(iiia) - Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

3.6 Section 4.15(1)(a)(iv) - Provisions of Regulations

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

- If demolition of a building proposed - provisions of AS2601

Section 62 (consideration of fire safety) of the 2021 EP&A Regulation is relevant to the proposal.

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

3.7 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The proposal would not impact on the local road network and would not create additional traffic or car parking issues. Subject to conditions, the development would not have an adverse impact on the infrastructure servicing of the site.

The proposal does not require the removal or modification of a significant area of vegetation or habitat, is generally consistent with the biodiversity element of HDGP and would not have a significant impact on matters listed under the NSW BC Act.

The consideration of impacts on the natural and built environments includes the following:

3.7.1 Context and setting

The proposal is considered to be generally consistent with the context of the site, in that the proposed buildings are of an appropriate scale, mass form and in character with the surrounding residential development.

3.7.2 Access and traffic

There would be minor increase in the student and staff numbers as a result of this development application, and therefore there would be a minor increase in traffic and travel demands. The facility would replace an existing facility with 15 students and five resident volunteers. The dwelling house on No. 26 Yarrara Road contains three bedrooms (and therefore approximately four residents). This is a total of 24 occupants over the two lots.

A total of nine resident volunteers and 20 students are proposed to occupy the new facility. This is an increase in five occupants as a result of the proposed development.

A Preliminary Construction Management Plan has been provided with this development application and includes details of construction traffic management. Construction access would be via the Stevens St and Yarrara Road frontages. All deliveries, loading and unloading of materials etc during construction would take place wholly within the site. A final construction management plan would be required prior to the commencement of works on the site. During construction, the facility would be non-operational. A Pedestrian Access Management Plan (PAMP) would be required as part of the final Construction Management Plan.

A number of public submissions raise concerns regarding lack of car parking for the development, and the increase in traffic generation/congestion on Stevens Street, Yarrara Road and surrounding streets. The issues raised in these submissions have been addressed in detail in this report.

The site is well serviced by public transport. A Green Travel Plan, Travel Access Guide and Parking Policy have been developed to mitigate traffic and car parking impacts the vicinity of the site.

Eremeran Parking Policy. The intersection of Stevens Street and Yarrara Road is a signalised intersection was pedestrian crossing.

The proposed buildings result in only minimal additional traffic and parking generation, as well as impact on public transport or capacity of the road network.

3.7.3 Public Domain

The proposed development would not adversely impact the streetscape. The proposal would be replacing dwellings nearing the end of their economic life. Currently the Yarrara Road frontage is flanked by a 1.8m high timber paling fence along much of the frontage of site. There is very little relationship between Yarrara Road frontage and the public realm of Yarrara Road.

The current development on the site would be replaced by a facility which is fit for purpose and is architecturally designed. The development is on corner allotment reducing the impact on neighbouring properties.

The locality is a transition zone between the R2 Low density residential zone and E1 Local centre zone. With a number of commercial uses within the R2 and RE1 and RE2 zoned land in the vicinity of the site. The development is in close proximity to services such as the bowling club, library, park, childcare services and Railway Station along Yarrara Road.

The development is of a similar size and scale of adjoining residential properties and is keeping within the maximum 8.5m development standard and two storey development control that dwelling houses in the vicinity are required to adhere to. The development incorporated design elements such as sandstone cladding and timber-look cladding which reflects materials used in mid-century bungalows in vicinity of the site.

The proposal includes an easily identifiable front entry from Stevens Street for visitors, emergency services and deliveries etc. The proposal provides for natural/casual surveillance Stevens Street and Yarrara Road through the placement of windows facing the respective boundaries.

The landscape plan incorporates canopy trees with the frontages of the site to complement the leafy garden appearance of Stevens Street and Yarrara Road. The existing 1.8m high timber paling fence would be replaced by a 1.2m high semi-open fence with brick piers and metal slats/ louvres. Landscape hedges would be planted behind the fence to create a leafy garden appearance along the Yarrara Road frontage.

The existing pedestrian pathways would maintained during demolition, construction and operation and provide important pedestrian linkages between the site, public transport, and other services in the area.

3.7.4 Utilities

The proposed educational establishment and community facility replace an existing education establishment and therefore all required utilities are currently available at the site.

No. 26 Yarrara Road is serviced by existing stormwater infrastructure, including an easement to drain water (1.2m wide) benefitting the site and burdening adjoining properties at No. 28 Yarrara Road and Nos. 52- 54 Yarrara Road.

Water supply to the site is provided by a Sydney Water water main. Water hydrants are located at the frontage of No. 26 Yarrara Road.

Three sewer mains run across the site radiating from the northern corner of No. 26 Yarrara Road. Sewer zone of influence requirements such as concrete encasement of the sewer main, or piers would be required to be incorporated into the development to Sydney Water specifications.

The site is currently connected to Electricity with Ausgrid being the electricity authority in this area.

3.7.5 Heritage

The subject site is not listed as a local heritage item, nor is the site located within a Heritage Conservation Area (HCA). However, the portion of the site comprising Nos. 1-3 Stevens Street is adjacent to heritage item No. 665 - 'Lallewoon' at No. 5 Stevens Street, a brick and sandstone inter-war bungalow built in 1922. A Heritage Impact Statement was submitted in support of this development application and Council's heritage assessment raised no concern with the proposed development.

3.7.6 Other land resources

The site is not within a drinking water catchment. There are no mining or quarry operations in the vicinity of the subject site.

3.7.7 Water/air/soils impacts

There is no information on Council's record to suggest the presence of any contamination at the site.

Whilst there would be disturbance of the site during construction, upon completion of the development, the site would be landscaped with shrubs, turf and trees (the majority of these being native), thus reinstating the microclimatic conditions on site.

Prior to any building works commencing on site, a sedimentation control fence would be erected around any part of the site that is to be disturbed. Such fencing would be erected in accordance with best practice guidelines.

Conditions can be applied to manage any potential unexpected finds during work.

3.7.7 Flora and fauna impacts

A total of 19 trees and one group of trees would be removed by the development. A further 17 trees would be impacted by the development.

A Flora and Fauna Assessment Report was prepared by Narla Environmental (dated September 2023) was submitted in support of the application. The development was further supported by an Arboricultural Impact Assessment prepared by Urban Arbor Pty Ltd, dated 31 August 2023 and a Root Investigation Report prepared by Urban Arbor Pty Ltd, dated 30 November 2023 to ensure that careful consideration has been given to the removal of the trees on the site, and that demolition and construction would not adversely impact on the health of trees to remain (which would otherwise result in the need for further trees to be removed in the future).

The proposal does not require the removal or modification of a significant area of vegetation or habitat, is generally consistent with the biodiversity element of the HDCP and would not have a significant impact on the matters listed under the NSW BC Act 2016.

3.7.8 Natural environment

Excavation is proposed to facilitate the construction of the basement level. A Geotechnical Investigation Report prepared by Geo Engineering Pty Ltd, dated 27 November 2023 has been submitted in support of the development.

The majority of cut and fill associated with the buildings would be contained within the respective building footprint.

Minor earthworks such as retaining walls would be incorporated in the landscaping. A retaining wall up to 1.2m high is proposed at the front of the site (Stevens St frontage). Retaining walls are also proposed around basement stairs.

Erosion and Sediment Control measures would be required to be employed during the demolition and construction phases of the development.

All disturbed areas of the site would be appropriately landscaped prior to the issue of the Occupation Certificate.

Subject to the imposition of appropriate conditions of consent, there would be no adverse impacts to the natural environment of the site.

3.7.9 Noise and Vibration

Noise intrusion into the development from the rail corridor and roads is predicted to comply with internal noise levels nominated within the submitted Acoustic Report.

Noise and vibration associated with construction impacts are expected and can be mitigated via the imposition of appropriate conditions of development consent. As discussed elsewhere in this report noise and vibration impacts to adjoining dwellings have been considered and appropriate conditions are recommended to be applied to the development.

Operational noise control measures are detailed in the Noise and Vibration Assessment prepared by Pulse White Noise Acoustics, dated 2 August 2023. This includes a recommendation that outdoor noise from amplified music/ parties is not permitted.

A Plan of Management has been prepared to reinforce the recommendations of the submitted Acoustic Report and to minimise impacts to neighbouring properties.

3.7.10 Natural Hazards

The site is not flood prone not bushfire prone.

3.7.11 Safety, Security and Crime Prevention

The principles of Crime Prevention Through Environmental Design (CPTED) have been implemented within the proposed development in accordance with the Department of Planning guideline titled Crime Prevention and the Assessment of Development Applications (2001) as follows:

Principle 1 - Natural Surveillance

As noted in Crime Prevention and the Assessment of Development Applications, good surveillance means that people can see what others are doing. People feel safe in public areas when they can easily see and interact with others. Would-be offenders are often deterred from committing crime in areas with high levels of surveillance. Natural surveillance is achieved through the placement of windows facing Stevens Street and Yarrara Road. A 1.2m high fences enable occupants of the private open space on the site to be able to view the public realm from these areas.

Principle 2 - Access Control

Access controls use physical and symbolic barriers to attract, channel or restrict the movement of pedestrians. Effective access controls make it clear that where people are permitted to go or not go and makes it difficult for potential offenders to reach and victimise people and damage property. The site is separated from the public domain by fencing along the sides and rear of the site. Select staff would remain on site all at time to monitor people entering the site.

Principle 3 - Territorial Reinforcement

Territorial reinforcement refers to the clear identification of public spaces, and the creation of a sense of community ownership over such spaces. People feel comfortable in, and are more likely to visit, places which feel owned and cared for. Well used places also reduce opportunities for crime and increase risk to criminals. Boundary fencing and landscaping would help differentiate public and private areas.

Principle 4 - Space Management

Space management refers to providing attractive, well maintained and well used spaces. As noted in Crime Prevention strategies, space management includes site cleanliness, rapid repair of vandalism and graffiti and the removal of damaged physical elements

The Applicant has addressed CPTED in the Statement of Environmental Effects, proposing the following measures:

- Access control to a secure basement car park.
- Separate access provided for pedestrians to ensure no conflicts between vehicles and pedestrians.
- Safe parking signage throughout the car park.
- Adequate lighting at all entry and exit points would be provided in accordance with the relevant Australian Standard.
- All entry/ exit points are aesthetic and inviting and the landscaping, building position and activities are all orientated to maximise natural surveillance on entry/exit.
- The new design of internal spaces does not create 'areas of entrapment or concealment'.
- All entries have good sight lines, are well lit and are in areas with ample room for access.
- Clear definition between public and private access areas are created using signage and security doors.
- All external areas of the building are proposed to be well lit, particularly at night.
- No opportunities for concealment are provided by the external building design or landscaping based on the design of the proposal.

3.7.12 Social Impact

The new buildings would aid in the social, spiritual and educational development of girls and women. community and provide a sense of place.

The facility coordinates community outreach programs such as mothers' groups, youth clubs, weekly after school programs, study sessions. HSC seminars, supervised study, leadership conferences, personal coaching and community projects in Australia and abroad. Further, the development would provide additional affordable accommodation.

Therefore, the proposal would have a positive social impact for the wider community.

3.7.13 Economic Impact

The proposal would generate additional employment during construction which would have some local economic benefits for local businesses. The proposal provides facilities for the families of people employed in the local community.

Overall, the proposal would result in both positive social and economic outcomes.

3.7.14 Site Design And Internal Design

The proposed buildings would replace existing mid-century dwellings.

The second storey residential component is orientated toward Yarrara Road and away from the residential properties on Stevens Street.

Raised pathways and ramps provide accessible access through out the site.

The well-designed landscaping and use of a variety of materials and colours in the buildings would soften their appearance to the surrounding neighbourhood context.

Overall, the proposal incorporates good articulation in the built form and a mixed palette of building materials, earthy colours and finishes to complement the leafy character of this neighbourhood.

3.7.15 Construction

Construction activities at the site would generate a range of construction and demolition waste across the various stages of demolition and building works. Throughout the development process, where possible, most materials would be reused and recycled, minimising the disposal (landfilling) of materials other than those that are unsuitable for reuse or recycling processes.

Waste storage during construction operations would involve some stockpiling of reusable material, as well as placement of skip bins for the separation of construction materials for recycling.

A Preliminary Demolition and Construction Management Plan was submitted in support of the development application. A comprehensive Demolition and Construction Management Plan (CMP) would be required as a condition of consent. A further condition reinforces the standard hours of construction work.

3.7.16 Cumulative Impacts

The proposal is unlikely to have any cumulative impacts. It is consistent with the planning controls, zoning of the land and the objectives of the R2 Low density residential zone.

Accordingly, it is considered that the proposal would not result in any significant adverse impacts in the locality as outlined above.

3.8 Section 4.15(1)(c) - Suitability of the site

The proposal replaces an existing educational establishment. There are adequate services, access to public transport, and onsite parking to service the proposed development. Provides an improved facility for the continued use of the site as an educational establishment. A signalised intersection and pedestrian crossing at the corner of Stevens Street and Yarrara Road provides safe pedestrian and vehicle access to the site.

The community facility generally complies with the numerical controls of the HDCP with the exception of the northwestern side setback.

A merit assessment has been undertaken having regard to the desired outcomes of Part 1 and Part 7 of the HDCP for the educational establishment and the development was found to be generally compliant with the numerical controls within the HDCP.

The building form is broken up into three building elements, with a highly articulated building on Stevens Street and a separate building on No. 26 Yarrara Road. This gives the development a bulk and scale commensurate with the surrounding residential development.

The site is not bushfire prone or flood prone.

The site is relatively level having a slope of only 3.8m (6.8%). This aids in efficient construction process, reducing construction costs, and provides for relatively level pedestrian access to the site.

The site an appropriate location and size for the proposed development.

3.9 Section 4.15(1)(d) - Public Submissions

Seven (7) public submissions were received in objection, and two public submissions in support. These submissions are considered in Section 5 of this report.

3.10 Section 4.15(1)(e) - Public interest

The site is within in the public interest as defined in Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*.

Potential impacts such as car parking, noise and vibration would be mitigated by conditions of Consent.

The development has been designed to respond sensitively to its setting and reflects the desired sale and significance of the immediate precinct.

The proposal is generally consistent with the relevant environmental planning instruments and HDCP, as well as being consistent with the *Greater Sydney Region Plan: A Metropolis of Three Cities*.

The development provides educational and community facilities in proximity to services, amenities and public transport.

There are no significant adverse impacts on the surrounding properties such as solar access, views, visual and acoustic privacy.

Consolidation of the two lots would promote the orderly and economic use and development of land.

The proposal is consistent with the principles of ecologically sustainable development, by incorporating rainwater collection and re-use, and design that promotes good solar access and cross-ventilation,

On balance the proposal is consistent with the public interest.

4 REFERRALS AND SUBMISSIONS

4.4 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 10.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

Table 10: Concurrence and Referrals to Agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
Rail authority for the rail corridor	Section 2.99(4) - <i>SEPP (Transport and Infrastructure)</i>	<p>The potential effects of the development (whether alone or cumulatively with other development or proposed development) on the rail corridor</p> <p>The proposed development involves excavation facilitate the basement car park and located within 25m of the adjacent rail corridor.</p> <p>Sydney Trains require that the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.</p> <p>Concurrence has been granted by Sydney Trains.</p>	Y
	Section 2.100 - <i>SEPP (Transport and Infrastructure)</i>	<p>Impact of rail noise or vibration on non-rail development.</p> <p>Acoustic Report has been proposed in support of the proposal</p>	Y
Referral/Consultation Agencies			
N/A			N/A
Integrated Development (S 4.46 of the EP&A Act)			
N/A			N/A

4.5 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined in Table 11.

Table 11: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	<u>Outcome:</u> Council's Development Engineer reviewed the submitted stormwater concept plan and considered that there were no objections subject to conditions.	Yes (conditions)
Traffic	<u>Outcome:</u> Council's Traffic Engineering Officer reviewed the proposal in relation to traffic generation and car parking. No objections were raised subject to conditions	Yes (conditions)
Building	Outcome: Council's Building Certifier reviewed the application against the provisions of the Environmental Planning & Assessment Act 1979 and Building Code of Australia and considered that there were no objections subject to conditions.	Yes (conditions)
Health	<u>Outcome:</u> Council's Environmental Health Officer has reviewed the proposal and has no objections subject to conditions.	Yes (conditions)
Waste	<u>Outcome:</u> Council's Waste Management Officer has reviewed the proposal and has no objections to the proposal subject to conditions and subject to consolidation of the two lots.	Yes (conditions)
Landscape	<u>Outcome:</u> Council's Landscape Architect has reviewed the proposed landscaped plans and has no objections to the proposal	Yes (conditions)
Environmental Protection	<u>Outcome:</u> Council's Environmental Protection Officer has reviewed the plan of management and acoustic report and has no objections to the proposal	Yes (conditions)
Heritage	Council's Heritage Officer reviewed the submitted Heritage Impact Statement ('HIS') prepared for the applicant and concurred with the conclusion of the HIS that there would not be any adverse impacts on heritage values arising from the proposal. Council's Heritage Officer has no objections to the proposal.	Yes

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

4.6 Community Consultation

The proposal was notified in accordance with the Council's Community Engagement Plan from 21 September 2023 until 12 October 2023. The notification included the following:

- A sign placed on the site
- Notification letters sent to adjoining and adjacent properties (42 letters sent)

- Notification on the Council's website

The Council received a total of nine unique submissions, comprising seven objections and two submissions in favour of the proposal. The issues raised in these submissions are considered in Table 12.



NOTIFICATION PLAN



• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED		PROPERTY SUBJECT OF DEVELOPMENT	
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Table 12: Community Submissions

Issue	No. received	Council Comments
Size and Scale of Development Non-compliance with HDCP, inconsistent with surrounding development. Inconsistencies regarding calculations in supporting documents. Proposal exceeds 30% site coverage. The scale of buildings. Roof areas and all connected walkways and hard surfaces are inappropriate the with the residential character and Inconsistent with surrounding	2	Outcome: The educational establishment building has the appearance of two pavilions when viewed from Stevens Street. The development meets the height requirements for dwelling houses under Part 3.1 of HDCP. The community facility has been assessed under the numerical controls of Part 7.1 Community Uses of HDCP. The community generally complies with the numerical controls with the exception of the south western side setback.

properties.		The educational establishment relies on existing use rights and therefore strict compliance with the numerical controls of HDCP is not required.
Compliance with HLEP and HDCP Request that Council strictly enforces all HLEP and HDCP requirements with no variations granted	1	Outcome: All development applications are subject to a merit based assessment, which allows the assessing officer to support variations to the numerical controls HLEP and HDCP where appropriate. The educational establishment at 1-3 Stevens Street relies on existing use rights and as such, compliance with numerical controls is not required. Notwithstanding, a merit assessment has been undertaken having regard for these controls.
Planning Approval Pathway The two proposals should be considered as two separate development applications as they are separate land uses on separate sites.	1	Outcome: It is well established in planning law that the use of land can be characterised as being for two or more independent purposes, even where there may be an ancillary relationship between the various uses <i>(Foodbarn Pty Limited v Solicitor-General (1976) 32 LGRA 157 at 166 and Baulkham Hills Shire Council v O'Donnell (1990) 69 LGRA 404).</i> A condition of consent would require consolidation of the lots before the issue of an Occupation Certificate.
Clarification regarding Community Facility The community facility would not be available for the wider community. Would it be used for functions? What are the hours of operation, and maximum occupants at any one time? What are the pick up and drop arrangements? Concerns that the proposal for a community facility is to circumvent the permissibility of an educational establishment on 26 Yarrara Road.	2	Outcome: A detailed Plan of Management was submitted subsequent to the public submission period. Educational establishments and community facilities are both permissible in the R2 - Low Density Residential Zone
Traffic and Transport The traffic and transport report does	2	Outcome: There is an existing exit driveway approximately 16m from Yarrara Road. The

<p>not adequately assess the increased volume of traffic or risk of the driveway's proximity to the intersection.</p> <p>Insufficient car parking provided for an educational establishment in the basement. The proposal would result in a significant increase in on-street car parking.</p> <p>Commuters in Yarrara Road would lose car parking. Increased parking would occur Willis Ave. A revised strategy incorporating drop-offs within the site should be provided.</p>		<p>proposed two way driveway is approximately 32m from Yarrara Road. Driveways would be limited to left in and left out. The location of the driveways is acceptable.</p> <p>There is a 3 hour parking restriction 8am to 6pm Monday to Friday on Willis Avenue. Student parking would extend onto Willis Avenue.</p> <p>A Green Travel Plan and Parking Policy have been submitted. Students would be encouraged to the site via public transport, cycling or walking. If students are to drive to the site, they would be required to book a car parking space in the basement.</p>
<p>Vehicle accidents from vehicles exiting the site</p> <p>concerns regarding the proximity of the driveway of the basement carpark to the intersection due to previous accidents at the intersection. When original premise was constructed, Council installed a median strip preventing right turns from the site. The traffic impact assessment should include the number of accidents in the intersection in the last three years. A traffic turning plan should be developed.</p>	1	<p>Outcome: Driveways would be limited to left in and left out access.</p> <p>The intersection of Stevens Street and Yarrara Road is a signalised intersection was pedestrian crossing.</p> <p>Council's Traffic Engineer advised that there is no requirement to upgrade the road network as a result of this development.</p>
<p>Construction Management</p> <p>Construction vehicles entering the site between 7-9am and 2.30-4pm could cause hold-ups to school children travelling to school. Construction parking should be provided on site.</p>	1	<p>Outcome: A Preliminary Demolition and Construction Management Plan has been provided in support of this development application.</p> <p>A condition of consent requires a Construction Traffic Management Plan (CTMP). This plan would require the completion of a Pedestrian Access Management Plan.</p>
<p>Flora and Fauna</p> <p>No flora and fauna assessment of the stormwater easement. Concerns the construction of pipe would have a construction beyond the 1.2m width of easement. The drainage line</p>	1	<p>Outcome: Additional engineering plans were sought in relation to the extent of stormwater easement to determine the extent of works required within the stormwater easement.</p> <p>All stormwater infrastructure in the easement is existing. No new stormwater infrastructure is</p>

would affect trees in the easement.		required to be installed in the easement, and therefore there is not expected to be any disturbance to the trees in the easement.
Drainage Increased load on stormwater infrastructure in Willis Ave. stormwater pipes in the easement should be constructed to the same standard of pipes under local roads. Concerns regarding dirty water discharge to 1 and 3 Willis Ave. The extent of hard surfaces and the affect on overland flows. What are the provisions for stormwater runoff during excavation? Concerns that water could enter the cellar on the adjoining property during excavation.	1	Outcome: Amended stormwater plans were received showing details within the drainage easements. Stormwater infrastructure including pipes exist within the stormwater easement. Upgrading of the stormwater infrastructure within the drainage easement is not required. Council's Development Engineer assessed the stormwater plans and has found them to be satisfactory subject to compliance with conditions on consent. A condition of consent requires a de-watering plan to be submitted prior to commencement of work that describes all controls to be implemented for the disposal of water that accumulates within any site excavation areas.
Site Use and Management The development would restrict the future use of the site for residential housing. The size and scale of the proposed development is inconsistent with original 2008 DA Consent.	1	Outcome: The existing site at 1-3 Stevens St is being used for residential housing of five residents. The dwelling house on 26 Yarrara Road contains three bedrooms (total of 8 bedrooms). The development proposes accommodation for nine residents. Each development application is assessed on its merit based on current planning controls. The proposal under this DA is not required to be consistent with the size and scale of the original 2008 DA Consent.
Emergency Services Access No details on emergency vehicles or NSW Fire Safety Guidelines. No designated hardstand for firefighters. The applicant should provide an emergency management plan	1	Outcome: A hydrant is located with the frontage of 26 Yarrara Road. The site has dual street frontage and therefore easy access for emergency vehicles, and for occupant evacuation can be achieved. Conditions of consent would require an initial and annual fire safety schedule to be provided to Council.

<p>Excavation work</p> <p>A geotechnical report has not been provided and should be, to understand the underlying substrata and to understand the quantity of spoil to be removed from the site. Substantial sandstone is likely to be encountered. If rock is present, excavation noise and vibration would affect adjoining properties. The effect on hydrology on adjoining properties is not known. Excavation should not be permitted within 25m of a rail corridor. A dilapidation report should be required prior to construction</p>	1	<p>Outcome: A geotechnical report was submitted in support of this development application.</p> <p>The development was referred to Sydney Trains whom raised no objections to the development application.</p> <p>A dilapidation report detailing the condition of adjoining properties at Nos. 5 Stevens Street and 28 Yarrara Road Pennant Hills is recommended as a condition of consent.</p>
<p>Use of quiet room and library</p> <p>Concerns that the quiet room and library would be used as a place of public worship. These rooms abut a residential property. If used as a public place of public worship, it could accommodate many visitors.</p>	1	<p>Outcome: There is no indication that the quiet room and library would be used as a place of public worship.</p> <p>The plan of Management states that the maximum occupant capacity of the facility at any one time would be nine residents and 20 students.</p> <p>A condition has been recommended to be included in the consent restricting the number of occupants at the facility at any one time and requiring compliance with the plan of management.</p>
<p>Will the facility contain a place of public worship?</p> <p>The current facility contains a place of public worship. Concerns that a place of public worship would be provided in the new facility despite being prohibited. Outdoor areas currently used for worship services such as Christmas service. Any council requirements of place of public worship should apply to this development.</p>	1	<p>Outcome: There has been no evidence provided by the Applicant or objectors that the premise would be used as a place of public worship.</p> <p>A condition has been recommended to be included in the consent restricting the number of occupants to nine residents and 20 students.</p> <p>A calendar of activities was submitted as part of the Plan of Management. No worship services were included in the calendar of activities.</p> <p>A Condition of Consent would require compliance with the Noise and Vibration Impact Assessment which includes a recommendation that outdoor noise from amplified music, and</p>

		parties are not permitted.
Noise impact Noise is currently experienced from the existing facility, particularly during outdoor recreation activities.	1	Outcome: Conditions have been included in the consent requiring compliance with the acoustic report and plan of management submitted in support of this development application. This includes the recommendation that outdoor noise from amplified music, and parties are not permitted. It is expected that the outdoor areas of the site would be used for passive recreation. There are no planned outdoor recreation activities listed in the plan of management submitted with the development application.
Noise of proposed garage door Noise of garage door particularly in early mornings. Conditions should be included any consent limiting the noise of the garage door.	1	Outcome: A condition of consent requires that the ongoing use of the premises including any plant or equipment installed on the premises must not cause: The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver.
Windows to upstairs bedrooms The first-floor plan does not depict any windows to the bedrooms. Clarification is sought as to whether there are windows, and if so, would they have a privacy impact? Questions regarding the minimum size of bedrooms.	1	Outcome: Amended plans depict windows to each bedroom. Bedrooms 1-5 would have windows to the southeastern elevation. Bedrooms 6-9 would have windows to the northwestern elevation. The National Construction Code (NCC) requires the minimum floor space of 6.5m ² . The window for the bedroom needs to be 10% of the total area of the room. The bedrooms would be minimum of 15.5m ² and therefore comply with the minimum floor area requirement for bedrooms. Privacy is discussed in detail in Section 3.4.8.6 of this report.
Clarification on the use of the residential component Should people employed outside the education establishment be permitted to reside on site?	1	Outcome: All residents would be rostered on to volunteer at the education establishment during the week. All resident volunteers additionally would be either employed or studying off-site

		<p>part time.</p> <p>A condition of condition requires that only teachers/volunteers working at the facility can reside on site, and that a maximum of nine staff can reside on site at any one time.</p>
Value to the local community (Positive)	2	Outcome: Noted
Value to the occupants (Positive)	2	Outcome: Noted
Proximity of community facility to residential properties Concerns regarding the permissibility of community facilities in proximity to residential properties.	1	Outcome: The proposed facility replaces an existing facility on the same site (albeit extending into 26 Yarrara Rd). Community facilities are permitted with consent in the R2 Low Density Residential Zone.
Loss of Privacy <ul style="list-style-type: none"> Proposed ground floor 1.5m above NGL resulting in loss of privacy for adjoining properties. The walkway would allow overlooking of 5 Stevens St's private open space. Overlooking from first floor bedrooms. Overlooking from balcony on 26 Yarrara Rd into adjoining properties. The 1.8m boundary fence is insufficient to provide privacy to adjoining properties. 	1	Outcome: The ground floor windows of the proposed development are to the library and quiet room. The quiet room window is divided into 5 narrow glazed panels separated by wide columns which affords appropriate privacy to the adjoining properties. The library window would be obscured by the carport on the adjoining property and is 10m from the windows on the adjoining property. The proposed raised walkway is setback 15.7m from the boundary. The proposed building would obscure view of the raised walkway to the bedrooms on the neighbouring properties. A 1.8m boundary fence is a standard height of fence in a residential zone. This fence would be flanked by trees including Grey Myrtle, Luscious Gum and Blueberry Ash which have mature heights of 5-10m, among a screening hedge of various species including lily pilli which has a mature height of 4m. A full length aluminium privacy screen has been added to the north eastern and south western elevation of balcony of 26 Yarrara Road with a return on the western elevation.
Venue capacity How would capacity restrictions and	1	Outcome: An Operational Plan of Management has been submitted with this development application

operation hours be enforced?		<p>and requires that the educational establishment and community facility not be operated concurrently. This would reduce the number of occupants on the site at any one time.</p> <p>Venue capacity and operational hours would be regulated by conditions of consent.</p> <p>If a report is made by a member of the public, Council's Compliance Unit can take action if the applicant is operating outside of the conditions of consent.</p>
<p>Flora and fauna Impacts</p> <p>The site contains remnant Blue Gum High Forest (BGHF). The footprint of the development should be reduced to move construction outside of tree protection zones. Additional hardstand areas would affect water flow, negatively affecting the environment.</p> <p>The tree removal would negatively affect native fauna habitat and affect the amenity of the area.</p> <p>Additional trees may die during the construction process, or the applicant may seek their removal at a later stage due to proximity to buildings.</p>	1	<p>Outcome:</p> <p>The proposal does not require the removal or modification of a significant area of vegetation or habitat, is generally consistent with the Biodiversity element of HDCP and would not have a significant impact on matters listed under the NSW <i>Biodiversity Conservation Act 2016</i>.</p> <p>No BGHF tree species are proposed to be removed.</p> <p>A Root Mapping Report has been prepared to determine if significant roots are located within the areas of the proposed construction adjacent to the trees on the site.</p> <p>Replacement planting of total of 49 replacement trees, as well as 269 shrubs is proposed.</p> <p>Conditions have been included in the consent requiring the installation of tree protection measures to protect trees potentially affected by construction.</p>

5 KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

5.4 Car Parking and Traffic

Car parking was only proposed to be provided in the basement of the educational establishment on Nos. 1-3 Stevens St and not the community facility on No. 26 Yarrara Road. This raised concerns that there would be no carparking available for the community facility at No. 26 Yarrara Road.

Resolution: The issue has been resolved through recommended conditions of consent. A condition requires the consolidation of the two allotments to ensure that the entire site remains in the same

ownership and that car parking remains available to 26 Yarrara Road. Lifts and ramps would enable accessibility between the basement car parking and the community facility on 26 Yarrara Road.

An amended operational plan of management was submitted confirming that the hours of operation of the educational establishment and community facility do not overlap. A condition of consent enforces the hours of operation of each facility.

5.5 Urban Design

The education and community facility are required to be of a scale and character that harmonises with the surrounding R2 Low density residential zoned community.

Resolution: The proposed building form presents a sympathetic response to the streetscape and is of an appropriate bulk and scale that positively contributes to the desired future character of the area.

The development has been broken up to three distinct building pavilions, generally mirroring the bulk and scale of residential dwellings. The development has a maximum height of two stories above existing ground level, further keeping with the bulk and scale of residential dwellings in the R2 Low density residential zone.

The corner allotment allows for increased separation from adjoining properties. The inclusion of an open style fence flanked with landscape hedging provides a pleasant street façade to Stevens Street and Yarrara Road. 49 replacement trees and 269 shrubs would be planted on site to reduce the bulk and scale of the development and soften the appearance of the development when viewed from the street or adjoining properties.

The residential storey (first floor) of the educational establishment has been orientated toward the Yarrara Road frontage, providing a setback of 20m from the adjoining residential property on Stevens Street. This provides additional acoustic and visual privacy to adjoining property owners.

The northwestern elevation of the development has been articulated and provided with a large, landscaped courtyard, which provides visual relief to adjoining residential properties. Varied building materials are proposed for all elevations of the development to break up any monotonous wall lengths.

The buildings have a contemporary design which incorporates classic materials such as sandstone to harmonise with the mid-century bungalows in the vicinity of the site. The design incorporates a soft colour palette which creates a relaxed environment for site occupants.

5.6 Noise and vibration Assessment

The potential for noise and vibration to impact on adjoining properties is an important consideration given the extent of demolition and excavation proposed, and the demolition and excavation methods likely to be utilised. The application was accompanied by a Noise Impact Assessment prepared by Pulse White Noise Acoustics, dated 2 August 2023 which considered this issue.

Pulse White Noise provides a Noise and Vibration assessment for the proposed Eremeran Hills Study Centre at 26 Yarrara Road and 1-3 Stevens Street Pennant Hills and assesses the potential for airborne and ground-borne noise intrusion from Yarrara Road and the Northern Railway line, as well as operational impacts from the proposed development.

A condition of consent requires that all control measures nominated in the Noise Impact Assessment, prepared by Pulse White Noise Acoustics, dated 2 August 2023 be implemented during demolition and construction work.

A construction Noise and Vibration Management (CNVMP) is required to be provided a condition of Consent prior to the issue of the Construction Certificate. This CNVMP is required to comply with Section 4.4 of the Noise Impact Assessment prepared by Pulse White Noise Acoustics, dated 2 August 2023. This report would address vibration impacts to adjoining properties, mitigate measures and details of a complaints handling process for the surrounding neighbourhood for each stage of works.

The proposal would result in additional nine occupants (four staff and five students), and therefore the proposed development is not expected to generate significantly increased noise. Operational Noise would be primarily managed through the Plan of Management. A 1.8m acoustic screen is to be installed along the common boundary with the adjoining residential properties. A Condition of consent requires that any plant and equipment installed on the premise must not cause the emission of noise that exceeds the background noise level by more than 5dBA when measured on or within the boundary of the most affected receiver.

Resolution: The issue has been resolved through recommended conditions of consent as outlined in Attachment A.

5.7 Construction Impact

The construction period would result in on-site disruption and external road impacts while demolition and construction of the new buildings is being carried out.

Resolution:

A Preliminary Construction Management Plan was submitted with the application. Conditions of consent would require additional information to be submitted to Council regarding cut and fill, excavated material disposal, fill importation, traffic management in the form of a final Construction Management Plan prior to work commencing.

As part of the final Construction Management Plan traffic management and pedestrian access would be addressed in detail and would include a Pedestrian Access Management Plan (PAMP).

A waste management plan was submitted with the development application and details that it is proposed to remove 400 tonnes of general waste (gyprock/timber/metal), 160 tonnes of concrete, 126 tonnes of pavers, as well of 813m³ of excavated materials which would then be conveyed to either recycling centres or landfill.

To address the impact of the construction of the basement, on both natural and built environments adjoining the site, as well as potential groundwater extraction, a Geotechnical report was requested by Council and provided by the applicant. The report makes recommendations such as requiring all footing and floor slabs to be designed to engineering principles, and recommendations for retaining walls, excavation and fill batter. Conditions of consent enforce compliance with the geotechnical report.

A condition of consent would require a Dilapidation Report detailing the condition of the immediately surrounding properties at 5 Stevens Street and 28 Yarrara Road to be submitted prior to the commencement of works.

Resolution: The issue has been resolved through recommended conditions of consent as outlined in Attachment A.

6 CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

The proposal would facilitate an increase in staff and student numbers to be accommodated on site. The proposal would facilitate a benefit to the community through the provision of educational opportunities and community outreach programs.

The proposed buildings replace existing buildings, and the design is compatible with the surrounding development. The proposed educational establishment and community facility are co-located with other community facilities and services.

Stormwater would be conveyed to an existing piped stormwater easement.

The site is not bushfire prone or flood prone.

Issues including permissibility, car parking, traffic, bulk and scale, storm water management, privacy, and noise and vibration have satisfactorily addressed through either amended plans and/or information provided by the applicant, or alternatively through conditions of consent. Therefore, subject to conditions of consent, it is considered that the site is suitable for the proposed development.

The Construction Management Plan submitted with this development application has demonstrated that the likely internal and external impacts during construction can be mitigated by the imposition of the conditions of consent.

Seven public submissions were received in objection to the proposal, and two public submissions were received in support of the development application. The issues raised in the submissions have been addressed in this report.

It is considered that the key issues as outlined in Section 5 have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at Attachment A.

7 RECOMMENDATION

It is recommended THAT:

- Development Application No. DA/885/2023 for demolition of dwelling houses and associated structures. construction of educational establishment with teachers' accommodation and basement carparking at Lot 12 DP 1151463 and Lot 13 DP 25833, Nos. 1-3 Stevens Street, and No. 26 Yarrara Road Pennant Hills be approved pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* as deferred commencement subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of consent
- Attachment B: Architectural Plans
- Attachment C: Plan of Management
- Attachment D: Sydney Trains Concurrence Letter