



# **BUSINESS PAPER**

## **LOCAL PLANNING PANEL MEETING**

**Wednesday 27 February 2019  
at 6:30pm**



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### GENERAL BUSINESS

#### Local Planning Panel

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**1 DEVELOPMENT APPLICATION - INCREASE CAPACITY OF CHILD CARE CENTRE FROM 57 CHILDREN TO 75 CHILDREN - 109 COPELAND ROAD, BEECROFT**

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**EXECUTIVE SUMMARY**

**DA No:** DA/1049/2014/G (Lodged 11 September 2018)

**Description:** Section 4.55(2) – Modification to an approved child care centre to increase the capacity of the childcare centre from 57 children to 75 children and modify materials relating to materials and finishes

**Property:** Lot A DP 166377 and Lot B DP 166377, No.109 Copeland Road, Beecroft

**Applicant:** Mr T J Kermani and Mrs H Kermani

**Owner:** Mr T J Kermani and Mrs H Kermani

**Estimated Value:** Not applicable

**Ward:** C

- The application proposes to increase the capacity of the approved child care centre from 57 children to 75 children and modify conditions relating to materials and finishes.
- The proposal generally complies with the *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*, *Hornsby Local Environmental Plan 2013*, and the *Hornsby Development Control Plan 2013*.
- The application is required to be determined by the Hornsby Shire Council LPP as more than 10 submissions were received.
- 14 submissions have been received in respect of the application.
- It is recommended that the application be approved.

**RECOMMENDATION**

THAT pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act 1979, Development Application No. DA/1049/2014 for construction of a single storey 75 place, purpose built child care centre with basement car park at Lot A and B DP 166377, No. 109 Copeland Road, Beecroft be amended as detailed in Schedule 1 of LPP Report No. LPP2/19.

## BACKGROUND

On 11 March 2015, Council considered DA/1049/2014 on the subject site and resolved the following:

*“THAT Development Application No. DA/1049/2014 for construction of a single storey 57 place, purpose built child care centre with basement car park at Lot A and B DP 166377, No. 109 Copeland Road, Beecroft be deferred to allow an onsite meeting to be arranged for available Councillors and Council officers to discuss the implications of the Development Application including: vehicular access and parking; setbacks; impact on significant trees; and proposed acoustic treatments.”*

In accordance with Council's resolution, on 26 March 2015, an on-site meeting was held to discuss the application. The meeting was attended by available Councillors and Planning Division officers. At the onsite meeting, Council officers provided an overview of the application and outlined the concerns raised in the public submissions. Discussion included consideration of the following:

- Impacts of the removal of the two significant trees on the Copeland Road frontage;
- Installation of a “15 MINUTE PARKING” zone along the York Street frontage of the site to allow drop-off by parents in the morning, if needed; and
- Installation of a “NO U-TURN” sign at the western end of the proposed median along Copeland Road.

On 13 May 2015, Council approved DA/1049/2014 for the construction of a 57 place child care centre. Accordingly, condition No.10 (e), (f) and (g) were recommended requiring installation of a “15 minute parking, 7am – 9am, Mon to Fri” zone along the York street frontage, installation of “no stopping 7am-9am and 2:30pm to 6pm Mon to Fri” and “no u turn” signage along the Copeland Road frontage.

On 4 February 2016, Council approved DA/1049/2014/A to remove three trees (T21, 21A and 22).

On 23 February 2016, Council approved DA/1049/2014/B to relocate the stairs and include 2x storerooms.

On 23 November 2016, Council approved DA/1049/2014/C to amend the material of balustrade, include a roof over stairs and include a garbage collection area with a roof enclosure.

On 8 August 2018, DA/1049/2014/D to relocate an acoustic fence closer to a boundary wall was withdrawn.

On 10 April 2017, Council approved DA/1049/2014/E to delete condition No. 49(d) regarding additional fencing on the western boundary.

On 8 August 2018, Council approved DA/1049/2014/F to modify the approved opening hours from 8am to 7:30am weekdays.

The childcare centre is currently operating at full capacity for 57 children.

## APPLICATION HISTORY

The subject Section 4.55(2) application was lodged on 11 September 2018 seeking to increase the childcare capacity from 57 children to 75 children.

In October 2018 and December 2018, Council requested various amendments to the submitted acoustic report to include details and data on the existing noise environment and existing acoustic measures, proposed noise emissions as a result of the increase in children and further details of

ongoing noise management procedures. On 17 December 2018, Council received an amended Acoustic Report.

On 22 January, Council staff inspected the site and noted that landscaping had not been planted in accordance with the original approved landscape plan. As a result, the Applicant submitted an amended landscape plan and photographs indicating that additional trees and shrubs have now been planted to comply with the requirements of the development consent.

## **SITE**

The existing childcare centre is located on the north-western corner of Copeland Road and York Street. The site is 1405m<sup>2</sup> in area and has a diagonal cross fall of 8.6% from the north-eastern corner (York Street) to the south-western corner (Copeland Road). Vehicular access to the site is gained via an existing driveway fronting Copeland Road to the basement carpark.

The subject property is located in the immediate vicinity of two locally listed heritage items – No. 106 Copeland Road (Item No. 77) and No. 116 Copeland Road (Item No. 78). The site is also located within the Beecroft/Cheltenham Heritage Conservation Area.

The surrounding area is characterised by single and two storey dwelling houses with large gardens and remnant trees.

The site is located 500m west of Beecroft Railway Station and approximately 260m west of Beecroft Primary School.

## **PROPOSAL**

The Section 4.55(2) modification proposes to increase the capacity of the child care centre from 57 children to 75 children and modify Condition No.52 'use of premises' to alter the approved children mix. The application also proposes to modify condition No. 14a) to exclude the requirement that the shade sail cloths be 'dark toned' and delete condition No.14c) that the mattulax glass balustrade be 'dark toned'.

The modification would require an increase in staff members from 9 to 13.

No physical works are required as a result of the modification.

## **ASSESSMENT**

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

### **1. STRATEGIC CONTEXT**

#### **1.1 Greater Sydney Region Plan - A Metropolis of Three Cities and North District Plan**

*A Metropolis of Three Cities – the Greater Sydney Region Plan* has been prepared by the NSW State Government to guide land use planning decisions for the next 40 years (to 2056). The Plan sets a strategy and actions for accommodating Sydney's future population growth and identifies key targets such as dwelling numbers, infrastructure planning, liability, sustainability and productivity.

Part 3 of the strategy relates to "Infrastructure and Collaboration" and a key objective is to provide services and infrastructure to meet communities' changing needs. The strategy anticipates the number of infants aged between 0-4 years are projected to increase by 85,000 between 2016 and

2036 and as a consequence the number of early education and child care facilities will need to increase.

Further, the strategy cites changing demographics will affect the types and distribution of services required in neighbourhoods. The location of the proposed childcare centre would be accessible for nearby residents.

The proposed development would be consistent with *A Metropolis of Three Cities*, by providing additional services including job creation within a local neighbourhood to support a growing youth population.

The *North District Plan* provides a 20-year plan to manage growth and achieve the 40-year vision, while enhancing Greater Sydney's liveability, productivity and sustainability into the future. It is a guide for implementing *A Metropolis of Three Cities - the Greater Sydney Region Plan* at a District level and is a bridge between regional and local planning.

Over the next 20 years to 2036, projections show an expected increase of 6,150 children aged 4 years and under. The identified challenge for Hornsby Shire will be to provide additional child care places for young children. The proposed child care centre could be consistent with the objectives of the strategy by providing 18 additional child care places to support a growing population.

## **2. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECTION 4.55(2)**

The proposal constitutes an amendment under Section 4.5(2). Pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, Council may consider an application to amend development consent provided that, inter alia:

- “(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) it has notified the application in accordance with:
  - (i) the regulations, if the regulations so require, or*
  - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and**
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

*Subsections (1) and (1A) do not apply to such a modification.*

- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must*

also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

(4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.

(5) (Repealed)

With respect to (a), it is considered that the proposal as amended is substantially the same as the development originally approved.

Section 4.5(2)(b) is not applicable as the development is not integrated development or State significant development.

In accordance with Section 4.5(2)(c) and (d), the amended application was advertised and 14 submissions were received. These submissions are addressed in the report.

### 3. STATUTORY CONTROLS

Section 4.15(1)(a) requires Council to consider “any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and regulations”.

#### 3.1 Hornsby Local Environmental Plan 2013

The proposed development has been assessed having regard to the provisions of the *Hornsby Local Environmental Plan 2013 (HLEP)*.

##### 3.1.1 Zoning of Land and Permissibility

The subject land is zoned R2 (Low Density Residential) under the *HLEP*. The objectives of the zone are:

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

The proposed development is defined as a “*child care centre*” and is permissible in the zone with Council’s consent. The proposal is consistent with the objectives of the zone as it provides additional services to meet the day to day needs of residents in the locality.

##### 3.1.2 Height of Buildings

Clause 4.3 of the *HLEP* provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The Section 4.55 modification does not propose any building works which would alter the existing approved building height which complies with this provision.

##### 3.1.3 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire. The site is located within the *Beecroft-Cheltenham Heritage Conservation Area (HCA) – Beecroft Plateau*

*Precinct*, listed in *Part 2, Schedule 5 (Environmental Heritage)* of the *HLEP* and also in the immediate vicinity of two locally listed heritage items at No. 106 and No. 116 Copeland Road.

Whilst the Section 4.55 modification does not propose any external works, a submission was received raising concerns regarding the colour of the constructed shade sails and the '*mattulax*' balustrade and non-compliance with conditions No.14a) and 14c) which required the following:

#### **14. Colour Scheme**

- a) *A dark tone colour scheme is to be used for the proposed Acoustic barrier, the gazebo roof and the shade sail cloth located within the York Street frontage. Details of the colour scheme are to be submitted to Hornsby Council for approval prior to the issue of the Construction Certificate.*
- b).....
- c) *A dark tone is to be used for the mattulax glass balustrade to be used for the access ramp. Details of the colour scheme are to be submitted to Hornsby Council for approval prior to the commencement of works.*

The above conditions were recommended as part of Council's heritage assessment of the proposal to further improve the heritage design of the building and blend in with the surrounding streetscape character.

The application proposes to modify condition No. 14a) to delete the requirement that the shade sail cloths be 'dark toned' and delete condition No.14c) that the mattulax glass balustrade be 'dark toned'.

The material of the two existing shade structures comprise an orange and blue colour. Council's Heritage assessment reviewed the proposed colours and raise objection to the bright colours of the shade sails as they increase the visual impact of the commercial child care centre in the residential setting and heritage streetscape. To reduce this impact the two sail shade cloths should be of a visually recessive colour scheme. Further, if Council were minded to remove the modification of Condition No.14(a), Council would have legal standing power to prevent changes to the colour of the shade cloths in the future. Accordingly, no approval is recommended for the modification of Condition No.14(a).

In regards to the colour of the translucent light green glass balustrade along Copeland Road, the applicant has planted 6 x Eumundi Ash trees directly in-front of the ramp which would reach a mature growth height of 7m and spread of 3m and in time would screen the ramp from the streetscape. Accordingly, no heritage objections are raised to the deletion of Condition No.14(c).

### **3.2 State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017**

*State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017* commenced on 1 September 2017. The SEPP overrides the Hornsby Development Control Plan with respect to certain aspects of the development including reference to ages, age ratios, groupings and numbers of the like. The SEPP determines that the provisions of the Child Care Planning Guideline generally take precedence over a DCP, other than building height, side and rear setbacks and parking rates.

The existing centre which proposes an increase in 18 children, would comply with the design quality measures addressed by the *Child Care Planning Guideline* including fencing, laundry and hygiene facilities, unencumbered indoor and outdoor space, toilet and hygiene facilities, ventilation and natural



light, administrative space, nappy change facilities, natural environment, shade and design for supervision. It is considered that the child care centre generally complies with the National Quality Framework Assessment Checklist.

### 3.3 Children (Education and Care Services) Supplementary Provisions Regulation 2012

Compliance with the *Regulation* is required for the licencing of child care centres by the NSW Department of Education and Communities.

The modified development has been designed in accordance with Clause 107 and 108 of the *Regulation* which requires the provision of 3.25 square metres of unencumbered indoor play area per child and 7 square metres of useable outdoor play area per child.

The centre would employ 12 staff members to comply with the educator to children ratio prescribed by the *Regulation*. Existing shade structures provide shade to the outdoor play area fronting York Street which is considered adequate. The proposal is assessed as acceptable with respect to the provisions of the *Regulation*.

### 3.4 Section 3.42 Environmental Planning and Assessment Act, 1979 - Purpose and Status of Development Control Plans

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

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

### 3.5 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the *Hornsby Development Control Plan 2013 (HDCP)*. The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

<b>Hornsby Development Control Plan 2013 – Part 7 Community</b>				
<b>Control</b>	<b>Approved</b>	<b>Proposed</b>	<b>Requirement</b>	<b>Compliance</b>
<b>Floor Area</b>	430m <sup>2</sup>	No change	430m <sup>2</sup> (site area >900 m <sup>2</sup> )	Yes
<b>Site Coverage</b>	39%	No change	40%	Yes
<b>Height</b>	8.5m – 2 storey	No change	8.5m– 2 storey	Yes
<b>Number of Children</b> 0-2 age group (33% of total)	20	20	Min. 24	No

Total number of children	57	75	60	
<b>Recreation Space</b>				
Outdoor (@ 7m <sup>2</sup> per child)	536m <sup>2</sup>	536m <sup>2</sup>	525m <sup>2</sup>	Yes
Indoor (3.25m <sup>2</sup> per child + 4.5)	269m <sup>2</sup>	269m <sup>2</sup>	243.75m <sup>2</sup>	Yes
<b>Landscaping</b>	58%	No change	40%	Yes
<b>Car Parking</b>	17 spaces	17 spaces	19 spaces	No (See discussion below)
<b>Setbacks</b>				
York Street (East)	15m		3m	Yes
Copeland Road (Front)	6m	No change	6m	Yes
Rear (North)	3m – 8m		3m – 8m	Yes
Side (West)	3m		900mm – 1.5m	Yes

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As detailed in the above table, the proposed development generally complies with the prescriptive requirements within the *HDCP* other than on site car spaces and maximum children numbers which is discussed further below including a brief discussion with the relevant desired outcomes.

### 3.5.1 Scale

The Child Care Guideline reports that an additional 2,700 long day care centres would be required by 2036 to address shortages and meet projected demand. The *SEPP* aims to respond to the demand for childcare centres and to require centres to be assessed on their merits, and not be constrained by an artificial cap on numbers.

Table 7.1.2(b) of the *HDCP* provides intensity controls to limit the size of child care centres. In residential zones, a maximum of 30 children is permitted for a dwelling house conversion and up to 40 children is permitted for a purpose built centre. The controls permit a capacity of 60 children when at least 33% of places are provided for 0-2 year olds. The modification proposes to increase the child care numbers at the existing centre to 75 children which does not comply with the above *HDCP* requirement.

As a consent authority cannot apply more onerous standards than required under the *SEPP*, the intensity controls of the *HDCP* as detailed above have no effect since commencement of the *SEPP*. The ages, age ratios, or numbers of children is not a matter for consideration in the *SEPP* or Guideline.

### 3.5.2 Open Space

The existing child care centre was designed to cater for additional child numbers with regard to indoor and outdoor space requirements. The modification to the child numbers would continue to comply with the requirements of Clause 28 (Space requirements) of the *Children (Education and Care Services) Supplementary Provisions Regulation 2012*. The indoor play areas are separated into four separate rooms in accordance with the age groups and include unencumbered play space. The outdoor play area comprises unencumbered open space suitable for larger centres. The proposed

outdoor play area is useable and accessible by children of all age groups. The play area includes a covered patio and temporary shade sails over the open areas.

### **3.5.3 Parking**

The existing child care centre includes 17 off-site car spaces at the basement level. In addition to the off-site car spaces, 4 x 15 minute car parking spaces are located along York Street adjacent to the child care centre.

The applicant submitted a Traffic and Parking Assessment Report (TPAR) prepared by Varga Traffic Planning Pty Ltd dated 27 February 2018.

The submitted Traffic and Parking Assessment Report provided a parking accumulation survey, on Thursday 15 February between 6:30am to 9:30am and 2:30 to 5pm. The parking accumulation survey revealed that the existing child care centre has 6 spare car spaces in the basement carpark during morning and afternoon peak hours. In addition 4 x 15-minute short term parking spaces are located on York Street adjacent to the child care centre. The 4x off-site car spaces along York Street are predominately used exclusively for the child care centre and were recommended as a condition of consent to address car parking and safety issues raised by residents at Council's meeting on 13 May 2015. Accordingly, Council's assessment of the proposal raises no objections to the parking non-compliance given the existing capacity of the child care centre and available short term 15-minute spaces.

Subject to compliance with existing recommended conditions, the proposal would maintain a safe environment for pedestrians in the locality and would not have a negative impact to surrounding street parking.

### **3.5.4 Landscaping**

A submission was received raising concerns that a significant amount of landscaping approved as part of DA/1049/2014 was not planted.

As discussed in Section 3.1.3 of this report, since the lodgement of the subject Section 4.55 modification, the applicant has planted 29 x 'lilly pillys', 3 x Water Gums, 1 x Camellia and 1 x Ivory Curl Flower along the York Street front setback and 7 x Eumundi Ash trees, 1 x lemon Scented Myrtle and 1 x Sydney Blue Gum along the Copeland Road front setback. This was in addition to trees and shrubs already planted.

In addition, the applicant provided an amended landscape plan depicting the recently planted trees and shrubs as well as deleting the screening trees originally proposed along both side boundaries as both these side boundaries receive minimal sunlight exposure as a result of boundary fencing, existing vegetation, orientation of the building and existing structures. As a result planting along these boundaries is not considered suitable for growing trees and shrubs and would provide a negligible increase in privacy to adjoining properties.

Council is satisfied that the modified landscape plan and recently planted landscaping is in keeping with the low density environment of the surrounding residential development and is acceptable.

### **3.5.5 Acoustics**

Submissions received for the modification raise concerns for potential noise impacts to neighbours as a result of the expansion of the child care centre.

In accordance with the provision of Part 1C.2.5 of the *HDCP*, the applicant submitted an acoustic assessment report prepared by Acoustic Dynamics detailing measures to minimise noise and an assessment of the existing acoustic measures and their effectiveness to minimise future noise issues resulting from the increase in children. Two amended reports were submitted dated 28/11/2018 and 12/12/2018 respectively. The updated report includes further details relating to noise results from acoustic testing carried out in July 2018 on the existing noise levels including from mechanical equipment as well as any mitigation methods required due to the increase in children.

The report concludes that the existing acoustic mitigation measures installed are adequate to cater for 18 additional children, would not result in noise exceeding the maximum 45dB(A) to adjoining properties and do not require any upgrades. The existing acoustic measures installed include the following:

- 18m long, 2.5m high cantilevered barrier located along the northern edge of the outdoor play area which functions successfully at minimising noise levels towards the northern adjoining property;
- 2.5m high concrete block wall and paling fence located along the northern boundary;
- A 1.4m high perspex acoustic screen to the east which functions effectively as an acoustic barrier to properties to the north and east;
- Outdoor play area times limited to 8:30am – 12pm and 2:30pm - 5pm; and
- Air conditioning units located within the basement car park.

Council's noise assessment is as follows:

The acoustic report submitted notes that the existing acoustic measures installed would comply with the 45 dB(A) limit for 75 children with the exception of the western property at No.107 Copeland Road which would be 47 Db (A) during the arrival of staff, children and guardians to the centre as a result of an agreement between both owners to retain the existing chain link fence, notwithstanding the 2 dB exceedance is assessed as acoustically insignificant.

Based on the assumptions contained within the acoustic assessment, no objections are raised to the increased capacity of the child care centre subject to recommended additional operational conditions requiring the following:

- *All noise generated by the proposed development to be attenuated to prevent levels of noise being emitted to adjacent premises which possess tonal, beating and similar characteristics or which exceeds background noise levels by more than 5dB(A).*
- *An acoustic assessment is to be undertaken by a suitably qualified environmental consultant within 60 days of occupying the site in accordance with the Environment NSW Industrial Noise Policy (2000), Council's Policy and Guidelines for Noise and Vibration Generating Development (Acoustic Guidelines V.5, 2000) and the DECC's Noise Guide for Local Government (2004). The assessment must be submitted to Council for review. Should the assessment find that noise from the premise exceeds 5dB(A) appropriate measures must be employed to rectify excessive noise.*
- *The cumulative noise generated from the use of the premises (including mechanical machinery) is not to exceed L90 + 10 dB(A) up to a total of 2 hours per day, with L90 + 5 dB(A) for the remainder of the day when assessed as an Leq (15 minute) noise contribution at*

*any point on the residential side of the common boundaries, or at any point in or on the adjacent residential properties.*

- *Should a noise complaint be received by Council from a place of different occupancy, the premises shall, upon notification of the complaint by Council, cease the use of the area of concern until an acoustic report is provided by an appropriately qualified acoustic consultant which confirms compliance with Point (a).*
- *The child care centre must be managed in accordance with the recommendations of the Acoustic Assessment prepared by Acoustic Dynamics dated 2018.*

Subject to compliance with the conditions of consent, the proposal is assessed satisfactory with regard to potential acoustic impacts.

#### **4. ENVIRONMENTAL IMPACTS**

Section 4.15(1)(b) of the Act requires Council to consider *“the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality”*.

##### **4.1 Built Environment**

###### **4.1.1 Traffic Generation**

The amended application would result in a 75 space purpose built child care centre.

The amended development is not categorised as a traffic generating development pursuant to the provisions of *State Environmental Planning Policy (Infrastructure) 2007*.

The applicant submitted a Traffic and Parking Assessment Report (TPAR) prepared by Varga Traffic Planning Pty Ltd dated 27 February 2018.

Council's Traffic and Parking assessment included a review of the existing and proposed vehicle trip generation, review of Roads Maritime Services data and existing car parking spaces. Council's Traffic assessment concluded that Traffic generation is not an issue for the increase in children as less than 10 additional vehicle trips would generated during the AM and PM peak hours according to RMS data.

Given the above, Council considers that the projected increase in traffic activities is minimal when compared to the maximum number of vehicles that can be accommodated by the local road network surrounding the site.

##### **4.2 Social Impacts**

The proposed modification to the child care centre would provide 75 child care spaces in the locality. The development would make a positive social contribution to the local community by providing additional child care options.

##### **4.3 Economic Impacts**

The proposal would have a minor positive impact on the local economy by generating an increase in demand for local services.

#### **5. SITE SUITABILITY**

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

The subject site has not been identified as bushfire prone or flood prone land. The site is considered to be capable of accommodating the proposed development. The scale of the proposed development is consistent with the capability of the site and is considered acceptable.

**6. PUBLIC PARTICIPATION**


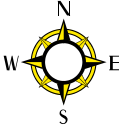
Section 4.15(1)(d) of the Act requires Council to consider “any submissions made in accordance with this Act”.

**6.1 Community Consultation**

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 3 October 2018 and 18 October 2018 in accordance with the Notification and Exhibition requirements of the HDCP. During this period, Council received 7 submissions. A further 7 submissions were received after the notification period. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



**NOTIFICATION PLAN**

<ul style="list-style-type: none"> <li>• PROPERTIES NOTIFIED</li> </ul>	<ul style="list-style-type: none"> <li>X SUBMISSIONS RECEIVED</li> </ul>	 PROPERTY SUBJECT OF DEVELOPMENT	
<p>4 SUBMISSIONS RECEIVED OUT OF MAP RANGE</p>			

The 14 submissions objected to the development, generally on the grounds that the development would result in:

- Unacceptable traffic on local streets and increased safety concerns;
- Concerns with existing parking arrangements;
- Non-compliance with landscaping;
- Increased waste issues;
- Non-compliance with colours of shade cloths and glass balustrade;
- Unacceptable noise from activities at the centre;
- Scale and intensity of the increase in children.

The merits of the matters raised in community submissions have been addressed in the body of the report with the exception of the following:

#### **6.1.1 Increase in waste issues**

The development includes a bin area in front of the basement car park and waste bins are collected from the driveway.

Council's original assessment in this regard concluded that the size of the bin area was required to be increased to 4m x 2.9m, that garbage trucks should reverse onto the driveway to collect the 660L bins from the bin area and recommended a condition of consent that the driveway pavement be designed to withstand the load of a Heavy Rigid Vehicle.

The existing waste storage area is assessed as adequate for the additional 18 children, Accordingly, no objections are raised regarding the existing on-going waste management for the site.

### **7. THE PUBLIC INTEREST**

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

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

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

### **CONCLUSION**

The proposal involves modification to an approved child care centre to increase the capacity of the childcare centre from 57 children to 75 children

The modified proposal generally complies with the relevant provisions of the *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*, *Hornsby Local Environmental Plan 2013* and the *Hornsby Development Control Plan 2013*. The development is permissible in the zone and is considered to be within the environmental capacity of the site.

Accordingly, the proposed development is recommended for approval.

The reasons for this recommendation are:

- The proposed development generally complies with the requirements of the relevant environmental planning instruments and development control plan,
- The proposed development would provide a positive social contribution to the local community by providing additional child care options.

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

#### **RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is Matthew Miles.

CASSANDRA WILLIAMS  
Team Leader - Major Applications  
Planning Division

ROD PICKLES  
Manager - Development Assessment  
Planning Division

#### **Attachments:**

- 1.⇒ Amended Landscape Plan
- 2.⇒ Architectural Plans
- 3.⇒ Locality Map

File Reference: DA/1049/2014/G  
Document Number: D07599146



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**SCHEDULE 1**


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<b>Date of 1st modification:</b>	4 February 2016
<b>Details of 1st modification:</b>	Section 96(1A) to remove three trees (T21, 21A and 22)
<b>Conditions Added:</b>	None
<b>Conditions Deleted:</b>	None
<b>Conditions Modified:</b>	2, 20, 42(a)

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<b>Date of 2nd modification:</b>	23 February 2016
<b>Details of 2nd modification:</b>	Section 96(1A) modification to relocate the stairs and include two storerooms
<b>Conditions Added:</b>	None
<b>Conditions Deleted:</b>	3(a) – (e)
<b>Conditions Modified:</b>	1, 42(c)

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<b>Date of 3rd modification:</b>	23 November 2016
<b>Details of 3rd modification:</b>	Section 96(1A) to amend material of balustrade, include roof over stairs and include a garbage collection area with a roof.
<b>Conditions Added:</b>	None
<b>Conditions Deleted:</b>	None
<b>Conditions Modified:</b>	1, 14

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<b>Date of 4<sup>th</sup> modification</b>	8 August 2018
<b>Details of 4<sup>th</sup> modification:</b>	Amend the opening hours from 8am to 7.30am weekdays
<b>Conditions Added:</b>	Nil
<b>Conditions Deleted:</b>	Nil
<b>Conditions Modified:</b>	52(d)(i)

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<b>Date of this modification:</b>	To be filled in
<b>Details of this modification:</b>	<ul style="list-style-type: none"><li>• Modify children numbers from 57 to 75,</li><li>• Modify landscape plan.</li><li>• Modify the finishes of the glass balustrade</li></ul>
<b>Conditions Added:</b>	53A
<b>Conditions Deleted:</b>	14c)
<b>Conditions Modified:</b>	1, 52(b), 52(c), 53

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**ITEM 1**

**GENERAL CONDITIONS**

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

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

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

**1. Approved Plans and Supporting Documentation**

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

Plan No.	Plan Title	Drawn by	Dated
S96 - DA01 Mod 3	Car Parking Plan	Paris John Spana Design	14/05/2018
S96 - DA02 Mod 3	Ground Floor Plan	Paris John Spana Design	14/05/2018
S96 - DA03 Mod 3	Elevations and Section 1	Paris John Spana Design	14/05/2018
S96 - DA04 Mod 2	Elevations and Section 2	Paris John Spana Design	15/11/2016
DA05-A	Roof Plan	Paris John Spana Design	27/11/2014
L_1 Issue D	Landscape Concept Plan	Wallman Partners Pty Ltd	29/11/2014
L_2 Issue B	Landscape Concept Plan	Wallman Partners Pty Ltd	21/1/2019

Document Title	Prepared by	Dated
Site Analysis Plan	Paris John Spana Design	4/09/2014
Stormwater Management Plans	ALW Design	11/07/2014
Mid-Winter Shadows – SD-1	Paris John Spana Design	4/09/2014
Survey Plan	MY Xu and Co	24/04/2014
Tree Assessment and Management Report	Growing My Way Tree Services	April 2014
Traffic and Parking Assessment Report	Varga Traffic Consulting	27/02/2018
Statement of Heritage Impact	Archnex Design	May 2014
Noise Intrusion and Emission Assessment	Acoustic Dynamics	12/12/2018

Access Review Report	Paris John Spana Design	28/07/2014
Waste Management Plan	Paris John Spana Design	11/09/2014
Schedule of Finishes	Paris John Spana Design	Received by Council on 11/19/2014
Phase 1 Preliminary Site Investigation Report	ADE Consulting Group	24/07/2014

ITEM 1

## 2. Removal of Existing Trees

This development consent only permits the removal of tree(s) numbered T21, T21a, T22, T23, T10, T11, T17, T14, T15 as identified within the *Tree Assessment and Management Report* prepared by *Growing My Way Tree Services* dated *April 2014*.

The removal of any other trees requires separate approval in accordance with the *Tree & Vegetation Chapter 1B.6 Hornsby Development Control Plan (HDCCP)*.

## 3. Amendment of Plans

The approved plan DA01 (Car Parking Plan) prepared by Paris John Spana Design dated 4/09/14 is to be amended as follows:

- a) Delete
- b) Delete
- c) Delete
- d) Delete
- e) Delete

The submitted Stormwater Management Plans prepared by ALW Design dated 11/07/14 is to be amended in accordance with the approved plans listed in Condition1 of this development consent.

## 4. Section 94A Development Contributions

- a) In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 94A Development Contributions Plan 2012-2021*, \$ 6,500.00 shall be paid to Council to cater for the increased demand for community infrastructure resulting from the development, based on development costs of \$ 650,000.00.
- b) The value of this contribution is current as at 10/02/2015. If the contributions are not paid within the financial quarter that this condition was generated, the contributions payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 94 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

Where:

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

$\$C_{DC}$  is the amount of the contribution as set out in this Development Consent

$CPI_{PY}$  is the latest release of the Consumer Price Index (Sydney – All Groups) at the date of Payment as published by the ABS.

$CPI_{DC}$  is the Consumer Price Index (Sydney – All Groups) for the financial quarter at the date applicable in this Development Consent Condition.

The monetary contributions shall be paid to Council prior to the issue of the first Construction Certificate where the development is for building work.

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

Council's S94A Development Contributions Plan may be viewed at [www.hornsby.nsw.gov.au](http://www.hornsby.nsw.gov.au) or a copy may be inspected at Council's Administration Centre during normal business hours.

#### REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

##### 5. Building Code of Australia

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

##### 6. Water/Electricity Utility Services

The applicant must submit written evidence of the following service provider requirements:

- a) *Ausgrid (formerly Energy Australia)* – a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.
- b) *Sydney Water* – the submission of a 'Notice of Requirements' under s73 of the *Sydney Water Act 1994*.

Note: Sydney Water requires that s73 applications are to be made through an authorised Sydney Water Servicing Coordinator. Refer to [www.sydneywater.com.au](http://www.sydneywater.com.au) or telephone 13 20 92 for assistance.

##### 7. Dilapidation Report

A 'Dilapidation Report' is to be prepared by a 'chartered structural engineer' detailing the structural condition of adjoining properties at No. 16 York Street and No. 107 Copeland Road, Beecroft.

##### 8. Internal Driveway/Vehicular Areas

The driveway and parking areas on site must be designed in accordance with Australian Standard AS 2890.1 – 2004 – Off Street Car Parking and Australian Standard 2890.2 - 2002 – Off Street Commercial and the following requirements:

- a) Design levels at the front boundary must be obtained from Council;
- b) The driveway must be a rigid pavement;

- c) The driveway grade must not exceed 25 percent and changes in grade must not exceed 8 per cent; and
- d) A dedicated turning bay be provided on the western side as marked on the approved plans;
- e) The driveway pavement between the Copeland Road boundary and the entry to the basement car park must be built to withstand the load of Heavy Rigid Vehicles.

#### 9. Vehicular Crossing Levels

A separate application under the Local Government Act 1993 and the Roads Act 1993 must be submitted to Council to obtain the design levels for the vehicular access crossing. These levels are to be used to design the entry driveway.

#### 10. Road Works

A median strip is to be designed in Copeland Road to prohibit right turns from and into the proposed development, in accordance with Council's Civil Works Design and Construction Specification 2005 and the following requirements:

- a) The Median strip is to be 600mm wide and is to extend from 6m west of the western extremity of the proposed access way to 6m east of the eastern extremity of the proposed access way;
- b) The design must include details of all adjustments to the existing line marking to maintain carriageway widths within Copeland Rd;
- c) Details of Installation of any regulatory signs as a result of the median strip; and
- d) The plans are to be submitted for written approval (Construction Certificate) from Hornsby Shire Council and the Local Traffic Committee under Section 138 of the *Roads Act 1993*.
- e) "NO STOPPING, 7AM – 9AM, 2:30PM – 6PM, MON to FRI" restrictions are to be installed on the boundary of Nos. 107, 109, 115 and 117 Copeland Road, Beecroft.
- f) A "NO U TURN" sign be installed on the central median at its western end.
- g) A "15 MINUTE PARKING, 7AM – 9AM, MON to FRI" sign installed along the York Street frontage of the site.

Note: Installation of the signs requires approval by the Hornsby Local Traffic Committee.

#### 11. Traffic Control Plan

A Traffic Control Plan (TCP) must be prepared by a qualified traffic controller in accordance with the Roads & Traffic Authority's Traffic Control at Worksites Manual 1998 and Australian Standard 1742.3 for all work on a public road and be submitted to Council. The TCP must detail the following:

- a) Arrangements for public notification of the works.
- b) Temporary construction signage.
- c) Permanent post-construction signage.
- d) Vehicle movement plans.

- e) Traffic management plans.
- f) Pedestrian and cyclist access/safety.

## 12. Waste Management Plan

A Waste Management Plan, covering the scope of this project and including the following details, is required to be submitted to Council for approval:

- a) An estimate of the types and volumes of waste and recyclables to be generated;
- b) A site plan showing sorting and storage areas for construction waste and the vehicle access to these areas;
- c) How excavation and construction waste materials will be reused or recycled and where residual wastes will be disposed;
- d) The total percentage (by weight) of construction waste that will be reused or recycled.

## 13. Construction Certificate Plans

The construction certificate plans must incorporate all the construction details recommended in the following reports:

Document No and Name	Prepared by	Dated
Noise Intrusion and Emission Assessment and the Addendum regarding Barrier	Acoustic Dynamics	5/06/2014 and 2/12/2014
Access Review Report	Paris John Spana Design	28/07/2014

## 14. Colour Scheme

- a) A dark tone colour scheme is to be used for the proposed Acoustic barrier, the gazebo roof and the shade sail cloth located within the York Street frontage. Details of the colour scheme are to be submitted to Hornsby Council for approval prior to the issue of the Construction Certificate.
- b) The colour and materials of the walls enclosing the garbage collection area and the stairs providing access from the basement must be dark tone and match the colour and materials of the walls of the proposed building.
- c) ~~A dark tone is to be used for the mattulax glass balustrade to be used for the access ramp. Details of the colour scheme are to be submitted to Hornsby Council for approval prior to the commencement of works.~~
- d) The material of the roof over the stairs and the garbage collection area must match the materials and colours of the proposed roof of the building.

### REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

## 15. Project Arborist

A Project Arborist is to be appointed in accordance with *AS 4970-2009 (1.4.4)* to provide monitoring and certification throughout the development process.

## 16. Erection of Construction Sign

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- a) Showing the name, address and telephone number of the principal certifying authority for the work;
- b) Showing the name of the principal contractor (if any) for any demolition or building work and a telephone number on which that person may be contacted outside working hours; and
- c) Stating that unauthorised entry to the work site is prohibited.

*Note: Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.*

#### **17. Protection of Adjoining Areas**

A temporary hoarding, fence or awning must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

- a) Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic.
- b) Could cause damage to adjoining lands by falling objects.
- c) Involve the enclosure of a public place or part of a public place.

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

#### **18. Toilet Facilities**

Toilet facilities must be available or provided at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet for every 20 persons employed at the site. Each toilet must:

- a) be a standard flushing toilet connected to a public sewer; or
- b) be a temporary chemical closet approved under the *Local Government Act 1993*; or
- c) have an on-site effluent disposal system approved under the *Local Government Act 1993*.

#### **19. Erosion and Sediment Control**

Erosion and sediment control measures must be provided and maintained throughout the construction period in accordance with the manual 'Soils and Construction 2004 (Bluebook)', the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sediment control devices must remain in place until the site has been stabilised and revegetated.

*Note: On the spot penalties up to \$1,500 may be issued for any non-compliance with this requirement without any further notification or warning.*

#### **20. Tree Protection Barriers**



- a) Tree protection fencing must be erected onsite around trees numbered T4, T5, T12, T13 & T19, to be retained at the nominated Tree Protection Zones (TPZ) listed below.

*Tree Protection Zones (TPZ)*

TREE	TPZ
T4, T5, T12, T13	7m
T19	15m
T16, T18, T26, T24	4m

- b) The tree fencing must be contiguous and constructed of 1.8 metre 'cyclone chainmesh fence' and where necessary tree fencing must facilitate pedestrian thoroughfare.
- c) Prior to works commencing and throughout construction, the area of the Tree Protection Zone (located on the property) of tree T19 is to be protected by the use of wood-chip mulch. Wood-chip mulch is to be installed on top of a geotextile landscape fabric, placed over the root zone of the tree. The mulch is to be maintained at a depth of 150mm – 300mm using material that complies with AS 4454.

*Note: A certificate from the Project Arborist (AQF 5) is to be submitted to the Principal Certifying Authority stating that all tree protection measures are in accordance with the above and consistent with the intentions of the Australian Standard 'Protection of Trees on Development Sites (AS 4970-2009) prior to commencement of works.*

## REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION

### 21. Construction Work Hours

All work on site (including demolition and earth works) must only occur between 7am and 5pm Monday to Saturday. No work is to be undertaken on Sundays or public holidays.

### 22. Environmental Management

The site must be managed in accordance with the publication 'Managing Urban Stormwater – Landcom (March 2004) and the Protection of the Environment Operations Act 1997 by way of implementing appropriate measures to prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction of the development.

### 23. Street Sweeping

Street sweeping must be undertaken following sediment tracking from the site along Copeland Road and York Street during works and until the site is established.

### 24. Works Near Trees

All required tree protection measures are to be maintained in good condition for the duration of the construction period.

Existing soil grades within four metres of the trunk of any tree to be retained must be maintained.

Works within the nominated Tree Protection Zones of trees T13, T19 are to be carried out in accordance with the following requirements:

- a) Works must not reduce the useful life expectancy of the tree and be carried out under the direct supervision of the Project Arborist. The project arborist must assess the condition of tree/s and the growing environment and make recommendations for, and if necessary carry out remedial action to ensure the health and vigour of the trees.
- b) The installation of any services within the nominated Tree Protection Zone shall utilise the thrust boring method. Thrust boring shall be carried out so that 'top of pipe' is a minimum 700mm depth beneath existing ground level.
- c) Excavation for the installation of piers within the nominated Tree Protection Zone of tree T19 shall be carried out by hand excavation ONLY.
- d) No tree root greater than 30mm diameter located within the nominated Tree Protection Zone of any tree to be retained on or off-site shall be severed or injured in the process of any works during the entirety of the consent.
- e) Tree roots less than 30mm diameter required to be severed for the purposes of this consent shall be cut cleanly by hand, by a qualified and experienced Arborist or Horticulturalist with minimum qualifications of Horticultural Certificate or Tree Surgery Certificate (AQF 3). All pruning shall be undertaken as specified in the Australian Standard 'Pruning of Amenity Trees' (AS 4373-2007).

*Note: Except as provided above, the applicant is to ensure that no excavation, filling or stockpiling of building materials, parking of vehicles or plant, disposal of cement slurry, waste water or other contaminants is to occur within 4 metres of any tree to be retained.*

#### **25. Council Property**

During construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath. The public reserve must be kept in a clean, tidy and safe condition at all times.

#### **26. Disturbance of Existing Site**

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

#### **27. Landfill**

Landfill must be constructed in accordance with Council's 'Construction Specification 2005' and the following requirements:

- a) All fill material imported to the site is to wholly consist of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material approved under the *Department of Environment and Climate Change's* general resource recovery exemption.

#### **28. Excavated Material**

All excavated material removed from the site must be classified in accordance with the Department of Environment, Climate Change and Water NSW Waste Classification

Guidelines prior to disposal to an approved waste management facility and reported to the principal certifying authority.

**29. Asbestos and Soil Contamination**

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

**30. Waste Management Details**

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

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

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

**31. Protection from Soil Pathogens**

To protect native flora and fauna from infection and infestation of pathogens and weeds all machinery shall be cleaned of soil and debris before entering the subject site to prevent the spread of weeds and fungal pathogens such as *Cinnamon Fungus (Phytophthora cinnamomi)* and *Chytrid Fungus (Batrachochytrium dendrobatidis)*.

**REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

*Note: For the purpose of this consent, a reference to 'occupation certificate' shall not be taken to mean an 'interim occupation certificate' unless otherwise stated.*

**32. Sydney Water – s73 Certificate**

An s73 Certificate must be obtained from Sydney Water.

**33. Stormwater Drainage**

The stormwater drainage system for the development must be constructed in accordance with Council's Civil Works – Design and Construction Specification 2005 and the following requirements:

- a) Connected directly to Council's street drainage system in Copeland Road.
- b) Details of the design be submitted with the Construction Certificate Plans.

**34. Driveway Works**

- a) All internal driveway works are to be completed in accordance with Condition 8 of this development consent.
- b) A speed hump and a "GIVE WAY TO PEDESTRIANS" sign must be installed on the southern boundary at the driveway entrance to reduce exiting vehicle speed and make drivers aware of pedestrians.
- c) One car space on the western side at the rear, as marked on the approved "Car Parking Plan", must be dedicated as a turning bay for vehicles accessing the site.

**35. Road Works**

All road works be completed and signage installed in accordance with Condition 10 of this development consent.

*Note: Approval by the Hornsby Local Traffic Committee is required prior to commencement of road works and installation of signs.*

**36. Damage to Council Assets**

Any damage caused to Council's assets as a result of the construction of the development must be rectified in accordance with Council's Civil Works Specifications. Council's Restorations Supervision must be notified for a formwork inspection prior to pouring concrete.

**37. On Site Stormwater Detention**

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

- a) Have a capacity of not less than 13.8 cubic metres, and a maximum discharge (when full) of 27 litres per second.
- b) Have a surcharge/inspection grate located directly above the outlet.
- c) Discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.
- d) Details submitted with the Construction Certificate Plans.

**38. Vehicular Crossing**

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

- a) Any redundant crossings must be replaced with integral kerb and gutter;
- b) The footway area must be restored by turfing;

- c) Details submitted with the Construction Certificate Plans;

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

### **39. Creation of Easements**

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

- a) The creation of an appropriate "*Positive Covenant*" and "*Restriction as to User*" over the constructed on-site detention/retention systems and outlet works, within the lots in favour of Council in accordance with Council's prescribed wording. The position of the on-site detention system is to be clearly indicated on the title.
- b) To register the OSD easement, the restriction on the use of land "*works-as-executed*" details of the on-site-detention system must be submitted verifying that the required storage and discharge rates have been constructed in accordance with the design requirements. The details must show the invert levels of the on-site system together with pipe sizes and grades. Any variations to the approved plans must be shown in red on the "*works-as-executed*" plan and supported by calculations.

*Note: Council must be nominated as the authority to release, vary or modify any easement, restriction or covenant.*

### **40. Consolidation of Allotments**

Prior to the issue of the Occupation Certificate the allotments are to be consolidated into one allotment. Evidence of the consolidation is to be given to the Principal Certifying Authority.

### **41. Works as Executed Plan**

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed road pavement, kerb & gutter, public drainage systems, driveways and on-site detention system.

### **42. Landscaping of Site**

All previous areas of the site and the road reserve adjoining the site must be appropriately landscaped with suitable (preferably indigenous) turf, trees and shrubs to complement the development and prevent erosion of soil in accordance with the approved Landscape Plan listed in Condition 1 of this development consent and the following requirements:

- a) Replacement trees, as marked on the approved Landscape Plan plus three additional trees, must be appropriately located outside the drip-line of existing trees and shall be in accordance with the specifications in the approved/stamped Landscape Plan.
- b) Plantings that fail to survive or do not exhibit normal health and vigour growth characteristics for their species prior to reaching a height greater than three metres (3m), must be replaced at the expense of the property owner.
- c) Dense screen planting reaching a minimum mature growth height of 4m, in front of the acoustic barrier, at the York Street frontage.

*Note: A certificate from suitably qualified and experienced Horticulturalist is to be submitted to the Principal Certifying Authority stating the above requirements have been met, that all plant stock meet the specifications outlined in 'Specifying Trees' (Ross Clark, NATSPEC Books) and that the planting methods are current, professional (best practice) industry standards at the time of planting.*

*Note: Advice on suitable species for landscaping can be obtained from Council's planting guide 'Indigenous Plants for the Bushland Shire', available at [www.hornsby.nsw.gov.au](http://www.hornsby.nsw.gov.au).*

#### **43. Final Certification**

The Project Arborist must assess the condition of all trees and the growing environment, where works have been conducted within the nominated tree protection zones, and make recommendations for, and carry out remedial actions where necessary.

Following the final inspection and the completion of any remedial works, the Project Arborist must submit a report stating that the completed works have been carried out in compliance with the approved plans and specifications for tree protection as above and AS 4970-2009.

#### **44. Waste Management**

The following waste management requirements must be complied with:

- a) The bin storage room must include water or a hose for cleaning, graded floors with drainage to sewer, robust doors, sealed and impervious surface, adequate lighting and ventilation, and must be lockable.
- b) A report must be prepared by an appropriately qualified person, certifying the following:
  - i) A comparison of the estimated quantities of each waste type against the actual quantities of each waste type.  
*Note: Explanations of any deviations to the approved Waste Management Plan is required to be included in this report.*
  - ii) That at least 60% of the waste generated during the demolition and construction phase of the development was reused or recycled.  
*Note: If the 60% diversion from landfill cannot be achieved in the Construction Stage, the Report is to include the reasons why this occurred and certify that appropriate work practices were employed to implement the approved Waste Management Plan. The Report must be based on documentary evidence such as tipping dockets/receipts from recycling depots, transfer stations and landfills, audits of procedures etc. which are to be attached to the report.*
  - iii) All waste was taken to site(s) that were lawfully permitted to accept that waste.
- c) The child care centre must be provided with an indoor waste/recycling cupboard for the interim storage of a minimum one day's waste generation with separate containers for general waste and recyclable materials.
- d) The bin carting routes must be devoid of any steps.

*Note: Ramps between different levels are acceptable*

**45. External Lighting**

All external lighting must be designed and installed in accordance with Australian Standard AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting. Certification of compliance with the Standard must be obtained from a suitably qualified person.

**46. Outdoor Play Area**

The outdoor play space must be adequately shaded in accordance with *The Shade Handbook*, published by the New South Wales Cancer Council in 2008.

**47. Acoustic Privacy/Fencing**

The following devices/fences must be installed on site in accordance with the approved plans listed in Condition 1 of this development consent:

- a) The existing 2.5m high concrete block wall be retained along the northern boundary;
- b) A 1.8m high paling fence shall be provided along the remaining section of the northern boundary;
- c) The acoustic awning shall be provided on the northern side of the allotment;
- d) **DELETED**
- e) A 1.4m high timber picket fence with transparent polycarbonate backing shall be provided along the York Street frontage (eastern boundary); and
- f) Timber picket fence shall be provided along the Copeland Road boundary.

**48. Food Premises**

The fit out and operation of that part of the building to be used for the manufacture, preparation or storage of food for sale, must be in accordance with Australian Standard 4674-2004 – Design and fit out of food premises, the Food Act 2003, and the Food Regulation 20010 and the Food Standards Code developed by Food Standards Australia New Zealand. Food Standards 3.3.1. 3.2.2 and 3.2.3 are mandatory for all food businesses.

*Note: Walls are to be of solid construction.*

**49. Kitchen Exhaust Installation**

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

**50. Retaining Walls**

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

**51. Installation of Air Conditioner**

To protect the amenity of adjacent properties, the condenser unit for the air conditioner must be sited in accordance with the submitted Noise Emission and Assessment Report.

**OPERATIONAL CONDITIONS****52. Use of Premises**

- a) The development approved under this consent shall be used for 'child care centre' and not for any other purpose without Council's separate written consent.
- b) The child care centre shall accommodate a maximum of 75 children. The age mix of children as at 1 January of each calendar year shall be in accordance with the following:
  - i) 0-2 years: 20 children
  - ii) 2-3 years: 20 children
  - iii) 3-4 years: 20 children
  - iv) 4-5 years: 15 children
- c) A maximum of 13 staff members shall be present at the centre at any one time.
- d) The hours of operation of the "child care centre" are restricted to those times listed below:
  - i) Monday to Friday - 7:30 am to 6:00 pm
  - ii) Saturday, Sunday & Public Holidays - No work
- e) All staff members are required to park on-site within the basement level car park.
- f) The children using the child care centre are permitted to use the open to air outdoor play area only between 8:30am – 12pm and 2:30pm - 5pm (Monday to Friday).

**53. Noise**

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

An acoustic assessment is to be undertaken by a suitably qualified environmental consultant within 60 days of occupying the site in accordance with the *Environment NSW Industrial Noise Policy (2000)*, *Council's Policy and Guidelines for Noise and Vibration Generating Development (Acoustic Guidelines V.5, 2000)* and the *DECC's Noise Guide for Local Government (2004)*. The assessment must be submitted to Council for review. Should the assessment find that noise from the premise exceeds 5dB(A) appropriate measures must be employed to rectify excessive noise.

- a) The cumulative noise generated from the use of the premises (including mechanical machinery) is not to exceed L90 + 10 dB(A) up to a total of 2 hours per day, with L90 + 5 dB(A) for the remainder of the day when assessed as an Leq (15 minute) noise contribution at any point on the residential side of the common boundaries, or at any point in or on the adjacent residential properties.
- b) Should a noise complaint be received by Council from a place of different occupancy, the premises shall, upon notification of the complaint by Council, cease the use of the area of concern until an acoustic report is provided by an appropriately qualified acoustic consultant which confirms compliance with Point (a).



**53A. Child Care Centre Management**

The child care centre must be managed in accordance with the recommendations of the Acoustic Assessment prepared by Acoustic Dynamics dated 2018.

**54. Waste Management**

All commercial tenants must keep written evidence on site of a valid contract with a licensed waste contractor(s) for the regular collection and disposal of the waste and recyclables that are generated on site.

**55. Car Parking and Deliveries**

All car parking must be constructed and operated in accordance with Australian Standard AS 2890.1 – 2004 – Off Street Car Parking and Australian Standard 2890.2 - 2002 – Off Street Commercial and the following requirement:

- a) All parking areas and driveways are to be sealed to an all weather standard, line marked and signposted.
- b) Car parking, loading and manoeuvring areas to be used solely for nominated purposes.
- c) Vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads;
- d) All vehicular entry on to the site and egress from the site shall be made in a forward direction.
- e) A dedicated turning bay must be provided on the western side of the car park.

**56. Fire Safety Statement - Annual**

On at least one occasion in every 12 month period following the date of the first 'Fire Safety Certificate' issued for the property, the owner must provide Council with an annual 'Fire Safety Certificate' to each essential service installed in the building.

**57. Landscape Establishment**

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

**- END OF CONDITIONS -**

**ADVISORY NOTES**

The following information is provided for your assistance to ensure compliance with the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000*, other relevant legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

**Environmental Planning and Assessment Act 1979 Requirements**

The Environmental Planning and Assessment Act 1979 requires:

The issue of a construction certificate prior to the commencement of any works. Enquiries can be made to Council's Customer Services Branch on 9847 6760.

A principal certifying authority to be nominated and Council notified of that appointment prior to the commencement of any works.

Council to be given at least two days written notice prior to the commencement of any works.

Mandatory inspections of nominated stages of the construction inspected.

An occupation certificate to be issued before occupying any building or commencing the use of the land.

### **Long Service Levy**

In accordance with Section 34 of the Building and Construction Industry Long Service Payments Act 1986, a 'Long Service Levy' must be paid to the Long Service Payments Corporation or Hornsby Council.

*Note: The rate of the Long Service Levy is 0.35% of the total cost of the work.*

*Note: Hornsby Council requires the payment of the Long Service Levy prior to the issue of a construction certificate.*

### **Tree and Vegetation Preservation**

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

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

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

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

### **Disability Discrimination Act**

The applicant's attention is drawn to the existence of the Disability Discrimination Act. A construction certificate is required to be obtained for the proposed building/s, which will provide consideration under the Building Code of Australia, however, the development may not comply with the requirements of the Disability Discrimination Act. This is the sole responsibility of the applicant.

### **Covenants**

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

#### **1. Advertising Signage – Separate DA Required**

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

**Dial Before You Dig**

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

**Telecommunications Act 1997 (Commonwealth)**

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

**Asbestos Warning**

Should asbestos or asbestos products be encountered during demolition or construction works, you are advised to seek advice and information prior to disturbing this material. It is recommended that a contractor holding an asbestos-handling permit (issued by *SafeWork NSW*) be engaged to manage the proper handling of this material. Further information regarding the safe handling and removal of asbestos can be found at:

[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

[www.adfa.org.au](http://www.adfa.org.au)

[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

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

**ITEM 1**