

CONSULTANT ASSESSMENT REPORT

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| DA No: | DA/389/2023 (Lodged on 10 May 2023) |
| Description: | Alterations & Additions to an existing child care centre |
| Property: | Lot 2 DP 565080, No. 1 Hall Road, Hornsby |
| Applicant: | Boss Design Pty Ltd |
| Owner: | Hornsby Shire Council |
| Estimated Value: | \$231,600 |

- The application involves alterations and additions to an existing child care centre known as Jack & Jill Kindergarten.
- The proposal generally complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013, with the exception of setbacks and landscaping. Importantly, the existing child care centre was approved in 1975, before the current controls of State Environmental Planning Policy (Transport and Infrastructure) 2021 and the Child Care Planning Guideline 2017 were in place.
- One submission has been received in response to the notification period and the matter raised is reinforced by way of a condition of consent regarding boundary fencing.
- The application is required to be determined by the Hornsby Local Planning Panel as Hornsby Shire Council is the landowner.
- It is recommended that the application be approved.

BACKGROUND

The site contains an existing child care centre, which was originally approved under DA/140/75 on 2 October 1975.

On 26 September 1986, Council granted consent to DA/140/75 for minor alterations & additions to an existing child care centre and permits a maximum of 45 children and play areas on the northern and eastern side of the building only.

On 10 May 2023, the subject development application was lodged.

On 22 June 2023, Council requested additional information regarding the outdoor play area at the rear of the building as it was not an approved play area, an Acoustic Report for that outdoor play area and requested that the proposed sliding door (D04) on the side elevation be relocated to the front northern elevation.

On 25 July 2023 and 15 August 2023, the applicant submitted additional information, including a request for the sliding door (D04) to remain.

SITE

The 1188m² lot is located on the southern side of Hall Road and contains an existing child care centre known as "The Jack & Jill Kindergarten".

Vehicular access to the site is via a split driveway directly from the curve in the road and over the wide verge. A car parking area is provided at the front of the centre, which extends onto the widened verge. An electricity pole is located at the front of the site within the vehicular entry area.

The existing building on the site is located close to the rear southern boundary, with the approved play areas located on the northern and eastern side of the building. The area along the southern boundary is currently being used as a play area without consent.

The site is generally flat closer to the road and slopes down towards the building.

The site has a side eastern boundary to the railway corridor and lines, which are elevated above the site and contain solid acoustic walls at the top of the embankment and open style chain wire fencing along the boundary at the level of the centre.

The site adjoins residential dwellings to the south and west. Boundary fencing approx. 1.2m high is in place along the southern boundary and continues along the western boundary however the overall height is increased as the fence is elevated due to retaining walls and garden beds. A metal garden shed is located within the western side setback adjacent to the boundary fence.

The site is not bushfire or flood prone and is not burdened by any easements or restrictions.

The site is surrounded by a mix of single and two storey dwellings to the north, south and west.

The site does not contain a heritage item, is not in the vicinity of a heritage listed item and is not located within a heritage conservation area.

The application indicates that the existing kindergarten is for children ages 3-5 years in two classes of 20 children, operates from Monday to Friday, 8:30am to 4pm during the NSW Public School terms, with 5 working staff including administrative staff and a maximum total of 40 children consistent with the licence for the centre. Staff arrive at 8am and leave by 5pm.

PROPOSAL

The application proposes alterations and additions to an existing childcare centre, including:

- Use of an outdoor play area on the southern side of the building and construction of an awning above, 3.07m high.
- Extension of the building to the west to accommodate a staff room, meeting room and storage room, with a roof height to match the existing pitched roof.
- Replacement of the existing ground covering for the rear southern playground space, removing the rubber soft-fall and replacing with synthetic grass.
- Existing metal shed which is located within the western side setback, is proposed to be relocated to the corner of the outdoor play area; and
- Alterations and additions to the internal space for staff facilities.

The materials and finishes of the new works are proposed to match the existing.

No tree removal is proposed.

No change to children numbers is proposed.

A Plan of Management has been prepared for the site and submitted with the application.

ASSESSMENT

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

1. STRATEGIC CONTEXT

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

The Greater Sydney Region Plan - A Metropolis of Three Cities has been prepared by the NSW State Government to guide land use planning decisions over the next 40 years to 2056. The Plan sets a strategy and actions for accommodating Sydney's future population growth and identifies dwelling targets to ensure supply meets demand. The Plan also identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

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. Further, the strategy cites changing demographics will affect the types and distribution of services required in neighbourhoods.

Between 2016 to 2036, the number of infants aged 0-4 years is projected to increase by 85,000 and there are projected to be 333,000 more children and young people aged 5-19 years. The identified challenge for Hornsby Shire would be to provide additional infrastructure for students and young people. The proposed works to an existing child care centre would be consistent with the objectives of the strategy by maintaining child care places and allowing existing centres to continue operating.

2. STATUTORY CONTROLS

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

2.1 Hornsby Local Environmental Plan 2013

The Hornsby Local Environmental Plan 2013 (HLEP) applies to all land within Hornsby Shire. An assessment of the development against the relevant sections of the HLEP is provided below.

2.1.1 Zoning of Land and Permissibility

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

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

The proposed development is defined as a *centre-based child care facility* and is permissible in the zone with Council's consent. The proposal meets the zone objectives and provides a service for the day to day needs of the residents and would contribute to meeting the increasing demand for child care in Hornsby Shire.

2.1.2 Minimum lot size

Clause 4.1 (Minimum lot size) of the HLEP requires a minimum lot size of 500m². The existing lot has an area of 1188m², which exceeds the requirement. No subdivision is proposed as part of this application.

2.1.3 Height of buildings

Clause 4.3 of the HLEP provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 8.5m. The proposal complies with this provision. The plans indicate a maximum height from existing natural ground level of the existing building of 3.85m and that the proposed addition to the west and new awning to the south do not exceed the height of the existing building. The height of the proposed works is well below the maximum height limit.

2.1.4 Heritage Conservation

Clause 5.10 of the HLEP sets out heritage conservation provisions for Hornsby Shire. The site does not include a heritage item and is not located in a heritage conservation area. Accordingly, no further assessment regarding heritage is necessary.

2.1.5 Earthworks

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

The objectives of this clause are to ensure that required earthworks will not have a detrimental impact on environmental functions and processes. Minor earthworks are required for the proposed development however it is considered that the proposed excavation would not adversely impact on environmental functions and processes, subject to standard conditions of consent being applied in regard to sediment control.

Council's assessment of the proposed works and excavation concludes that minor cut and fill works will not impact upon surrounding properties, including drainage.

2.2 State Environmental Planning Policy (Transport and Infrastructure) 2021

The application has been assessed against the requirements of Chapters 2 and 3 of State Environmental Planning Policy (Transport and Infrastructure) 2021.

2.2.1 Development in or adjacent to rail corridors

Chapter 2, Division 15, Subdivision 2 of State Environmental Planning Policy (Transport and Infrastructure) 2021 contains controls with respect to development adjoining rail corridors. The site has a side eastern boundary to the railway corridor and lines, which are elevated above the site and contain solid acoustic walls at the top of the embankment and open style chain wire fencing along the boundary at the level of the centre.

Consideration has been given to Clauses 2.98 Development adjacent to rail corridors; 2.99 Excavation in, above, below or adjacent to rail corridors; and 2.100 Impact of rail noise or vibration on non-rail development and it has been determined that the proposed alterations and

additions to an existing childcare centre do not trigger the requirement for referral or further consideration.

2.2.2 Educational Establishments and Childcare Facilities

Chapter 3 of State Environmental Planning Policy (Transport and Infrastructure) 2021 aims to facilitate the effective delivery of educational establishments and early education and care facilities.

Section 3.23 of Chapter 3 requires Council to consider the relevant provisions of the Child Care Planning Guideline 2017 (CCPG).

The CCPG will generally take precedence over the HDCP with the exception of building height, side and rear setbacks and car parking rates.

Importantly, the existing child care centre was approved in 1975, before the current controls were in place. The proposal generally complies with the CCPG requirements, in particular with respect to the new components including the unencumbered outdoor play area.

An assessment of the proposed alterations and additions to an existing childcare centre against Part 1.3 *Planning objectives*, Part 2 *Design quality principles*, Part 3 *Matters for consideration* and Part 4 *Applying the National Regulations to development proposals* is provided below:

2.2.2.1 Part 1.3 - What are the planning objectives?

The planning objectives contained within Part 1.3 of the CCPG include requirements that child care facilities are compatible with the existing streetscape, context and neighbouring land uses and that they seek to minimise adverse impacts of development on adjoining properties and the neighbourhood.

The discussion provided below in response to Part 3 of the CCPG, demonstrates that the proposed modification is considered consistent with these objectives.

2.2.2.2 Part 2 - Design quality principles

The discussion provided below in response to Part 3 of the CCPG, demonstrates that the proposed modification is consistent with the design quality principles of Part 2 in relation to built-form, landscaping, safety and amenity, privacy, solar access and noise.

2.2.2.3 Part 3 - Matters for Consideration

Part 3.1 - Site selection and location

The objectives of Part 3.1 of the CCPG include that the siting of child care centres should be clear of potential environmental contaminants. In addition, Part 3.1 encourages that the land characteristics be suitable for the scale of the development with regard to adjacent properties.

Centre-based child care facilities are a permissible land use within the R2 Low Density Residential zone. The site is not flood prone or bushfire prone.

The approved development demonstrated that the childcare centre appropriately accommodates for the site constraints relating to land gradient, pedestrian safety, site contamination and vehicular traffic.

Section 2.4.1 of this report addresses site contamination and remediation works.

The visual scale of the proposed development is unaltered from the approved development and is consistent with the capability of the site and is considered acceptable.

The proposal meets the objectives of Part 3.1 of the CCPG and the proposal is supported in this regard.

Part 3.2 - Local character, streetscape and the public domain interface

The objectives of Part 3.2 of the CCPG include that child care centre developments should contribute to and recognise existing streetscape qualities and integrate car parking into the building and site landscaping design.

Hall Road is a low-density residential street with a streetscape predominantly comprising single and two storey dwelling houses. The alterations and additions to the existing child care centre would not alter the presentation to the streetscape and remains as a single storey structure in a landscaped setting.

The proposed works are minor in scale and are located to western side and rear elevations of the approved development. The proposed works would not be visible from the public domain and would not impact upon the streetscape.

The proposal meets the objectives of Part 3.2 of the CCPG and is supported in this regard.

Part 3.3 - Building orientation, envelope and design

The objectives of Part 3.3 of the CCPG stipulate that childcare centres should be orientated to minimise visual privacy and minimise noise impacts and respond to the adjacent built form.

Sections 2.7.5 and 2.7.6 of this report address the noise and privacy considerations of the proposed development. It is considered that subject to conditions of consent that the proposal is consistent with the privacy and noise considerations of the approved development and is deemed acceptable in this regard.

The proposal meets the objectives of Part 3.3 of the CCPG and the proposal is supported in this regard.

Part 3.4 - Landscaping

The objectives of Part 3.4 of the CCPG encourages landscape design that contributes to the streetscape and amenity.

Landscaping is in existence on the site and the application does not seek any alterations due to the building addition being over an existing paved area and the rear setback already being utilised as soft fall not landscaping. A condition of consent is recommended for new screen planting along the southern and western boundaries where landscaping is not currently provided.

The proposal meets the objectives of Part 3.4 of the CCPG, and the proposal is supported in this regard.

Part 3.5 - Visual and Acoustic Privacy and Part 3.6 - Noise and Air Pollution

The objectives of Part 3.5 of the CCPG include that child care centres minimise overlooking of internal living areas and private open spaces at adjoining sites through appropriate building layout including pathway, window and door locations. The objectives of Part 3.6 of the CCPG include that a suitably qualified acoustic professional prepare an acoustic report to identify an appropriate noise level for a childcare centre facility.

Council's assessment of the acoustic and privacy requirements of the child care centre are discussed in detail in Sections 2.7.5 and 2.7.6 of this report.

The proposal meets the objectives of Parts 3.5 and 3.6 of the CCPG and is considered acceptable, subject to conditions of consent.

Part 3.7 Hours of operation

Part 3.7 of the CCPG indicates that the hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays.

The hours of use of the childcare facility would remain as per existing arrangements being Monday to Friday, 8:30am to 4pm during the NSW Public School terms and complies with this requirement.

Part 3.8 Traffic, parking and pedestrian circulation

Part 3.8 of the CCPG indicates that a Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. In addition, the CCPG indicates that child care facilities proposed within narrow roads should ensure that safe access can be provided to and from the site and that vehicles can enter and leave the site in a forward direction.

Given this proposal does not intensify the site with no increase in children numbers, the existing traffic, parking and pedestrian arrangements remain acceptable.

Section 2.7.3 of this report addresses parking, traffic and pedestrian circulation.

2.2.3 Part 4 Applying the National Regulations to development proposals

The following table sets out the proposal's compliance with the measures of Part 4 of the CCPG:

| Child Care Planning Guideline 2017 - Part 4 | | | | |
|--|--|--|------------------------------|-------------------|
| Control | Approved DA | Proposal | Requirement | Compliance |
| Unencumbered indoor space | 145.78m ² 3.64m ² per child | 145.78m ² 3.64m ² per child | 3.25m ² per child | Yes |
| Unencumbered outdoor space | 474.3m ² 11.8m ² per child | 529.15m ² 13.2m ² per child | 7m ² per child | Yes |
| Storage | | | | |
| - <i>External</i> | >0.3m ³ per child | No change | 0.3m ³ per child | Yes |
| - <i>Internal</i> | >0.2m ³ per child | No change | 0.2m ³ per child | Yes |
| On site laundry | Not provided on site | No change | Provided on site | No |
| Child toilet facilities | Provided on site | Provided on site | Provided on site | Yes |
| Administration space | Provided on site | Provided on site | Provided on site | Yes |
| Nappy change facilities | Not provided on site | No change | Provided on site | No |
| Solar Access for outdoor play | Existing northern & eastern play only | No change to existing. Proposed southern area greater than one-third covered, approx. 71%. | 30-60% | Yes |

As detailed in the above table, the proposed development generally complies with Part 4 of the CCPG, with the exception of an on-site laundry and nappy change facilities. Importantly, the existing child care centre was approved in 1975, before the current controls were in place. The proposal generally

complies with the proposal, in particular with respect to the new components including the outdoor play area. Further, the nappy change facilities are only required for children who wear nappies and this centre is for children 3-5 years old and unlikely to wear nappies. There is no change proposed to the existing internal play rooms and toilet area and as such it is unreasonable to require a laundry or nappy change facility be added in this instance.

Section 3.25 of the Transport and Infrastructure SEPP states that:

“development consent must not be granted for the purposes of a centre-based child care facility in Zone R2 Low Density Residential if the floor space ratio for the building on the site of the facility exceeds 0.5:1”.

The proposed development has a Floor Space Ratio (FSR) of 0.25:1 and complies with Section 3.25 of the SEPP.

Section 3.26 of the Transport and Infrastructure SEPP contains non-discretionary development standards. This prevents the consent authority from imposing more onerous standards or refusing an application on the basis that they have not been complied with. An assessment of the application against Section 3.26 of the Transport and Infrastructure SEPP has been carried out below:

Centre-based child care - non-discretionary development standards

(a) *Location - the development may be located at any distance from an existing or proposed early childhood education and care facility.*

The existing centre's location is acceptable. Whilst there are other child care centres within the vicinity of the site, the child care centre can be located at any distance from an existing or proposed childhood education and care facility in accordance with Section 3.26(2)(a) of the Transport and Infrastructure SEPP.

(b) *Indoor or outdoor space*

(i) *For development to which clause 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations applies - the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those clauses, or*

(ii) *For development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the Children (Education and Care Services) Supplementary Provisions Regulation 2012 applies - the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause;*

Comment: The regulations require a minimum of 3.25m² of unencumbered indoor play area and a minimum of 7m² of unencumbered outdoor play area per child. The existing centre and proposal complies with this requirement.

(c) *Site area, site coverage and site dimensions—the development may be located on a site of any size, cover any part of the site and have any length of street frontage or any allotment depth.*

Comment: The site has an area of 1188m² and is considered acceptable.

(d) *Colour of building materials or shade structures—the development may be of any colour or colour scheme unless it is a heritage item or in a heritage conservation area,*

Comment: The centre is not located within a heritage conservation area and the proposed colours for the addition will match the existing centre.

In summary, the proposal complies with the provisions of State Environmental Planning Policy (Transport and Infrastructure) 2021 and is assessed as satisfactory in this regard.

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, in particular Part 3.6 and Schedule 5 relating to Advertising and Signage.

The application does not propose any changes to this signage and further assessment under this policy is not required.

2.4 State Environmental Planning Policy (Resilience and Hazards) 2021

The application has been assessed against the requirements of Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021.

2.4.1 Chapter 4 Remediation of Land

Section 4.6 of State Environmental Planning Policy (Resilience and Hazards) 2021 states that consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use.

The site was deemed satisfactory for child care centre purposes at the time of the original consent and no change of use is proposed and no evidence was found of contaminating land activities having occurred on the land. The current and previous planning controls do not allow for potentially contaminating uses. As such, no further investigation is required.

Based on the above assessment, the provisions of Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 have been considered along with the contaminated land planning guidelines and the site is considered suitable for the proposed development.

2.5 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The application has been assessed against the requirements of Chapters 2 and 6 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

2.5.1 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.

The proposal does not require any tree removal, and further consideration of this policy is not required.

2.5.2 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.

Part 6.2 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, which were considered at the time of the assessment of the original application.

The proposal is deemed satisfactory subject to conditions of consent address the requirements of Chapter 6 of the Biodiversity and Conservation SEPP.

2.6 Section 3.42 Environmental Planning and Assessment Act 1979 - Purpose and Status of Development Control Plans

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

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

2.7 Hornsby Development Control Plan 2013

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

| HDCP - Part 7 Community Uses | | | | |
|--|--|--|------------------------------|-------------------|
| Control | Approved | Proposed | Requirement | Compliance |
| Site Area | 1188m ² | 1188m ² | N/A | N/A |
| Floor Area | 264m ² | 293m ² | 430m ² | Yes |
| Site Coverage | 22% | 24% | 40% | Yes |
| Height | 3.85m | 3.85m | 8.5m | Yes |
| No. of Storeys | 1 storey | 1 storey | max. 2 storey | Yes |
| Number of Children | 45 (licenced 40) | 40 | max. 40 | Yes |
| Recreation Space | | | | |
| - <i>Indoor</i> | 145.78m ² 3.64m ² per child | 145.78m ² 3.64m ² per child | 3.25m ² per child | Yes |
| - <i>Outdoor</i> | 474.3m ² 11.8m ² per child | 529.15m ² 13.2m ² per child | 7m ² per child | Yes |
| Landscaping | Approx 30% | No change | min. 40% | No |
| Car Parking (1 space per 4 children) | 12 spaces | No change | 10 spaces | Yes |
| Setbacks | | | | |

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|------------------------|------------|--------------|----|-----|
| - <i>Front (north)</i> | Approx 23m | No change | 6m | Yes |
| - <i>Side (east)</i> | Approx 3m | No change | 2m | Yes |
| - <i>Side (west)</i> | 3.9m | 0.9m | 2m | No |
| - <i>Rear (south)</i> | 0.85m-4.9m | 0.9m - 1.45m | 8m | No |

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

2.7.1 Scale

The HDCP limits the capacity of a child care centre in a residential zone to 40 places for a purpose built centre, or 60 places if at least 33% of all places are provided for 0-2 year old children if certain other requirements are met. Additionally, the HDCP requires 15m² of outdoor recreation space per child.

Notwithstanding the above, Section 3.27 of the Transport and Infrastructure SEPP states that:

“(1) A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purposes of a centre-based child care facility —...;

(2) This clause applies regardless of when the development control plan was made.”

Accordingly, the Transport and Infrastructure SEPP removes the limit on 40 places and 15m² outdoor recreation space per child as they are controls under a development control plan control. These limitations do not apply.

In line with the Transport and Infrastructure SEPP, the centre provides sufficient size per child to meet the indoor and outdoor area requirements, and there the existing capacity of the centre can be supported.

2.7.2 Landscaping

The originally approved child care centre has a landscape plan which indicates the play areas on the northern and eastern side of the building would be a mix of grass lawns and plantings. Over time this has changed in response to developments in materials used in child care centre outdoor play areas such as soft fall instead of grass.

The proposal does not propose removal of vegetation or landscaping. The western area is currently hardstand in the location of the new building addition. The southern area was original approved as landscaping and from a review of aerial photographs appears to have been grass up until around 2010 and has been utilised as a play area since that time and the grass removed.

Having regard to the proposed changes including the building addition, landscaping is not being removed. It would be difficult for the existing child care centre to satisfy landscaping provisions due to the outdoor play areas not meeting the definition of landscape areas due to the use of a ground surface soft fall material rather than turf. Whilst some of these soft fall areas could be turfed, in this instance it would be impractical for this to occur due to ongoing maintenance issues.

Clause 7.1.4 of HDCP requires that where a children's outdoor play space adjoins a residential property, screen planting along the common boundary with the residence should be provided. A condition of consent has been recommended requires screen planting along the southern and western boundaries which adjoin residential properties to prevent privacy impacts. The addition of this planting will assist with softening the site as well as screen the residential properties adjoining the site and will not reduce the necessary unencumbered outdoor play areas which is in excess of the requirements.

On balance it is considered that the existing landscaping on site, which is able to be retained by the proposal, as well as the required screen planting ensures adequate landscaping is maintained and provided on site.

In line with the above, the proposal is acceptable with regards to Part 7.1.4 Landscaping of the HDCP and meets the objectives of Part 3.4 of the CCPG.

2.7.3 Transport, Parking and Traffic

The HDCP requires a minimum of 1 on-site car parking space per 4 children (which equates to 10 spaces for the proposed 40 children). The approved car park would comprise 12 car parking spaces, which complies with this requirement.

The subject application seeks to retain the approved car park arrangement and no concerns are raised in this regard.

There is no change proposed to the children numbers and as such the existing traffic generation will remain unaltered.

2.7.4 Waste Management

The existing waste management arrangements remain in place and unaltered by the proposal.

2.7.5 Noise and Vibration

The HDCP requires that childcare centres be accompanied by an acoustic report that demonstrates the development is sited and designed to minimise the effect of noise and vibration on surrounding sensitive land uses. Given this proposal introduces a new play area along the southern boundary, the application has been supported by an Acoustic Report.

The Acoustic Report, which considers the noise impacts from the proposal, including the use of the southern play area which has not been previously granted consent for such use. The report also considers the impact of the nearby railway lines on the existing centre and new play area.

An amended acoustic assessment dated 7 August 2023 was provided following Council's request for further information. All details of operations and children numbers are consistent with the revised Statement of Environmental Effects and Plan of Management.

Council's Environmental Protection Team have reviewed the proposal as amended and updated Acoustic Report and provided commentary below.

Unattended noise monitoring was conducted between 5 July and 11 July 2023, with noise loggers placed on the eastern boundary of the site (near T9 northern railway line), and near the backyard of the existing building (near the southern boundary) of the site. The logger locations are suitable for this assessment. Sensitive receivers are identified in Figure 2-1 of the Acoustic Report, including residential properties surrounding the subject site listed as R1-7. The daytime noise levels were determined to be:

- Eastern boundary RBL 39dBA and LAeq 55

- Southern boundary RBL 36dBA and LAeq 49

The project trigger noise level for outdoor play is stated as 45dBA. This is established by applying the AAAC base criterion due to the measured ambient noise level being below 40dBA. This project trigger noise level is suitable for the proposal.

Other noise emissions are provided with a separate noise criterion, applying the background +5dBA (intrusive noise) criteria. There appears to be an error with the RBL listed to determine the criteria with the evening RBL of 34dBA being applied, rather than the daytime RBL of 36dBA. The criteria is listed as 39dBA and this should be 41dBA.

Noise impact from rail on the outdoor play area is stated as compliant with the AAAC criteria of LAeq(1hour) 55dBA. Data obtained from the noise logger location was used to make this determination.

Indoor areas are only compliant with the criteria LAeq(1hour) 40dBA with windows closed and the recommendation is provided that all indicated glazing must remain closed.

Noise from outdoor play is predicted to comply at all receivers, provided the 2.1 metre high solid barrier is installed as recommended.

Recommendations are provided in Section 6 of the amended acoustic assessment including limiting the number of children for outdoor play, installation of a 2.1 metre high solid barrier along the south boundary, window configuration shown in Figure 2-2, glazing to the sliding door on the southern exterior at a minimum Rw32 and a further assessment is required once mechanical plant schedules have been selected.

The following is an extract from the recommendations of the Acoustic Report:

“6.1 Outdoor Play Areas

In order to achieve compliance with Council’s noise requirements for outdoor play, the following must be implemented:

- *All the 20 children of 3-5 age group can engage in new outdoor play area for passive play.*
- *No music is to be played in the new outdoor area.*
- *2.1 meters high solid barrier along the south boundary to mid position of the west boundary must be implemented (please refer to Figure 2-2 for further details).*
- *Children must be supervised at all times.*

6.2 Indoor Play Area

In order to achieve compliance with council’s noise requirements for indoor play, the following must be implemented:

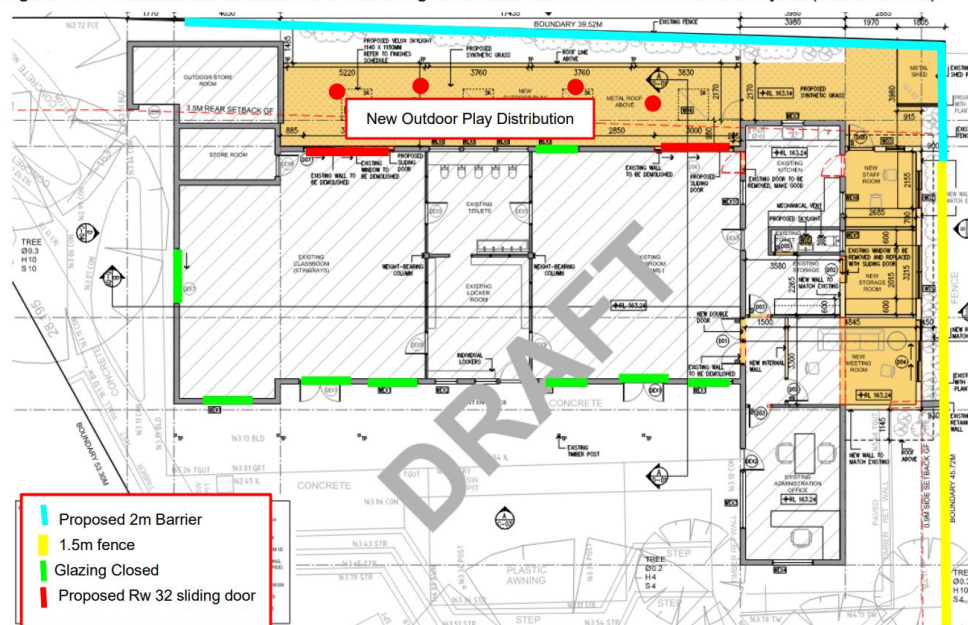
- *The windows must follow the configuration shown in Figure 2-2.*
- *The glazing for Classroom (STINGRAY) & Classroom (POSSUMS) sliding door and windows on southern exterior façade must have a minimum Rw 32, all remaining glazing can be standard.*

6.3 Roof/Ceiling

Approximately 50 % of ceiling/roof area above the outdoor play must be provided with sound absorptive material in order to reduce the breakout noise generated within the area. The minimum NRC rating requirement for the absorptive material is NRC 0.7.”

Figure 2-2 of the Acoustic Report is shown below:

Figure 2-2 Additions & Alterations to the existing Child Care Centre Child Care Centre Layout (Ground Floor)



The figure above indicates the fence along the southern boundary and part of the western boundary (shown blue in the figure) is 2m, however the recommendations of the report are for the fence to be 2.1m in height. The correct height has been reinforced by recommended conditions of consent.

The site has existing boundary fences along the southern and western boundaries in the vicinity of the new building works and southern play area, which are required to be replaced will new fencing of increased heights to satisfy the Acoustic Report. The issue raised in the submission will also be rectified by the new solid fencing.

Council's Environmental Protection Team have reviewed the proposal as amended and raise no concerns on noise and vibration grounds. The proposal meets the objectives of the CCPG and the HDCP and is considered acceptable, subject to conditions.

2.7.6 Privacy

The application as originally proposed included a sliding door to the western elevation of a new meeting room. During the assessment, it was requested by Council that the door be moved to the northern elevation to minimise privacy impacts due to the proximity to the side boundary and adjoining residential property. The applicant has requested that the sliding door (D04) on the side western elevation remain as proposed in order to maximise sunlight, rather than relocated to the northern elevation as requested by Council. Justification was provided based on the infrequent use of the side area adjacent to the door for maintenance only, the need for sunlight and that the top of the fence is approx. 2.5m above the FFL of the meeting room.

There is a discrepancy regarding the use of this western side area which is only 0.9m wide from the edge of the addition to the boundary. The Proposed Ground Floor Plan B-02 indicates plants within this area, where as the Elevations and Sections indicate a flat area and no planting. Given there is an elevated landscaped area along the boundary above the retaining wall currently, it is expected that this retaining wall and existing landscaping would need to be removed to accommodate the addition and that the Elevations and Sections more accurately depict a flat area which would be used for maintenance, consistent with the written documentation. The new boundary fence along the western

elevation for the large part is required to be 1.5m by the Acoustic Report, which combined with the changes in this area to levels and the new addition being close to the boundary and below the minimum side setback, creates opportunity for privacy loss.

To accommodate this request whilst ensuring that privacy is maintained to the adjacent properties, a condition of consent has been recommended to install a window instead of a sliding door as D04 and increases the sill height of the proposed window to the meeting room (replacing D04) and the staff room (W02) on the western elevation. This is considered necessary given the reduced western side setback down to 0.9m, below the requirement of 2m under the DCP level changes, removal of landscaping to accommodate a maintenance area and fencing. Further, the new fence along the western boundary indicated within the Acoustic Report as being 1.5m is required by way of a recommended condition of consent to be a minimum of 1.8m in height.

The proposal complies with the privacy requirements of Part 7.1.6 of the HDCP and is considered acceptable.

2.7.7 Floor Area & Number of Children

The HDCP provides that the maximum floor area of a childcare centre should be 430m², and the maximum number of children should be 40 children. The capacity of the centre is not increased from 40 as licenced and increase the floor area increased to 293m², which complies with the HDCP requirements.

Section 3.23 under Chapter 3 of the Transport and Infrastructure SEPP requires Council to consider the relevant provisions of the CCPG. The CCPG takes precedence over the HDCP with the exception of building height, side and rear setbacks and car parking rates. Accordingly, the HDCP does not apply with regard to number of children and floor area. It is noted that the CCPG does not provide limitations on floor area or number of children. Notwithstanding, Section 3.25 of the Transport and Infrastructure SEPP prescribes a maximum FSR on the site of 0.5:1 for childcare centres. The proposed development has an FSR of 0.25:1 and complies with Section 3.25 of the SEPP.

2.8 Section 7.12 Contributions Plans

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. Noting that the cost of works would be \$231,600, an appropriate condition of consent is recommended requiring the payment of a contribution in accordance with the Plan.

3. ENVIRONMENTAL IMPACTS

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

3.1 Natural Environment

3.1.1 Stormwater Management

The proposal seeks to maintain the approved stormwater management design and configuration and connect the addition to the existing system and no concerns are raised by Council in this respect.

3.1.2 Tree and Vegetation Preservation

No trees would be removed or impacted by the development.

3.2 Built Environment

3.2.1 Access and Mobility

Given the design of the existing centre and carpark at the front of the site, there is no pedestrian/vehicle conflict. This remains unaltered by the proposal.

3.2.2 Traffic

The assessment of traffic impacts is discussed in this report under Section 2.7.3 which concludes that traffic generation would not result in an unacceptable impact in terms of traffic and safety on the surrounding road network.

3.3 Social Impacts

The proposed proposal would make a positive social contribution to the local community by providing services for the needs of local residents. This is consistent with the State Government's 'A Metropolis of Three Cities' which identifies the need to provide an additional 85,000 child care places by 2036.

3.4 Economic Impacts

The proposal would have a minor positive impact on the local economy by generating an increase in employment opportunities.

4. SITE SUITABILITY

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

The subject site has not been identified as bushfire prone 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.

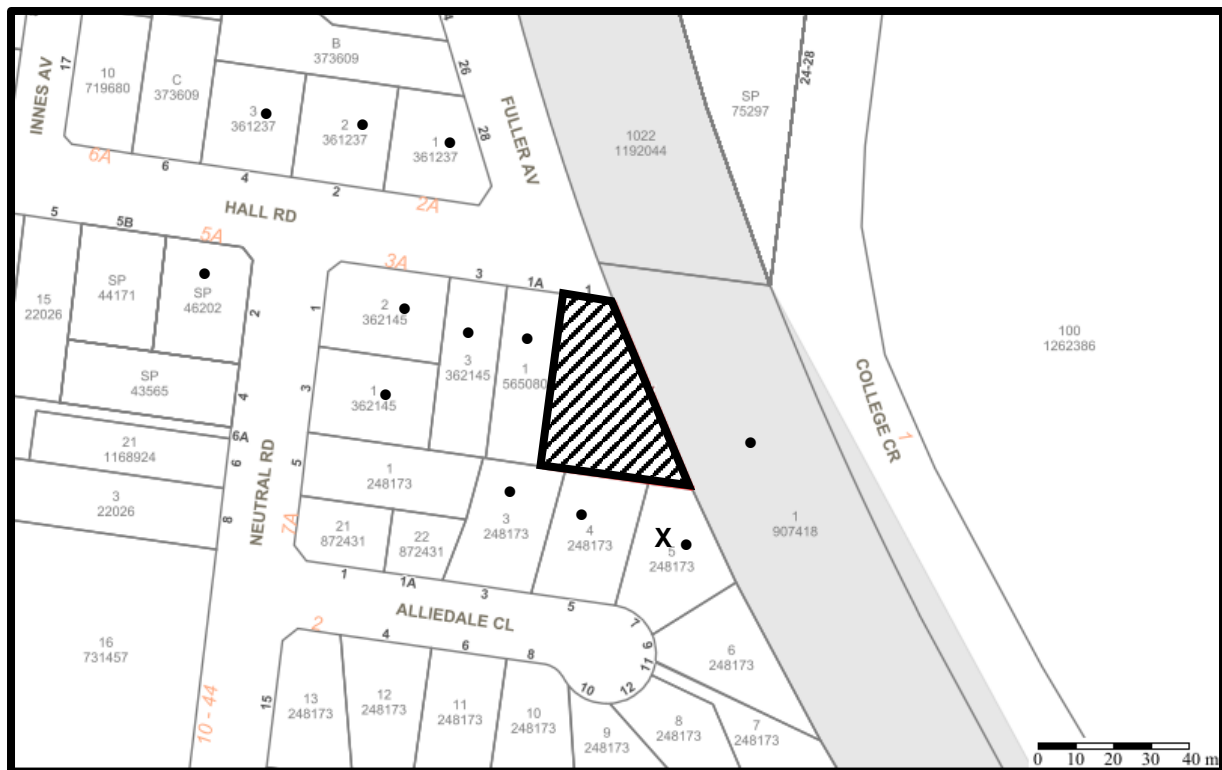
5. PUBLIC PARTICIPATION

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

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 16 May 2023 to 13 June 2023 in accordance with the Notification and Exhibition requirements of the Community Participation Plan. During this period, Council received one (1) submission which did not object to the development but indicated a desire for a gap in the existing boundary fence between the site and their residential site to be closed up.

New boundary fencing along the southern and western boundaries is required in accordance with the Acoustic Report and this will resolve the current opening in the boundary fencing along the southern boundary. A condition of consent has been included to ensure this issue is rectified.

The map below illustrates the location of the properties notified.



NOTIFICATION PLAN

| | | | |
|---|--|---|---|
| <ul style="list-style-type: none"> • PROPERTIES NOTIFIED | <ul style="list-style-type: none"> X SUBMISSIONS RECEIVED |  PROPERTY SUBJECT OF DEVELOPMENT |  |
|---|--|---|---|

5.1 Public Agencies

The development application was not referred to any Public Agencies for comment.

6. THE PUBLIC INTEREST

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

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

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

CONCLUSION

The application proposes alterations and additions to an existing child care centre.

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

Council received one (1) submission during the public notification period. The matters raised have been addressed in the body of the report and the issue is reinforced by way of a condition of consent regarding boundary fencing.

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

The reasons for this decision are:

- The proposed development generally complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013.
- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, overshadowing, solar access, amenity or privacy.

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

RESPONSIBLE OFFICER

The officer responsible for the preparation of this report is Donna Clarke from Landmark Planning Pty Ltd.

RECOMMENDATION

THAT Development Application No. DA/389/2023 for alterations and additions to an existing child care centre at Lot 2 DP 565080, No. 1 Hall Road, Hornsby be approved subject to the conditions of consent detailed in Schedule 1 of this report.

Schedule 1

| |
|---------------------------|
| GENERAL CONDITIONS |
|---------------------------|

1. Approved Plans and Supporting Documentation

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

Approved Plans

| Plan No. | Plan Title | Drawn by | Dated | Council Reference |
|-----------------|----------------------------|-----------------|--------------|--------------------------|
| A-02 | Site Plan | Boss Design | Aug 2023 | |
| B-02 | Proposed Ground Floor Plan | Boss Design | Aug 2023 | |
| B-03 | Proposed Roof Plan | Boss Design | Aug 2023 | |
| C-03 | Proposed Elevations A & B | Boss Design | Aug 2023 | |
| C-04 | Proposed Elevations C & D | Boss Design | Aug 2023 | |
| D-01 | Proposed Sections A & B | Boss Design | Aug 2023 | |

Supporting Documents

| Document Title | Prepared by | Dated | Council Reference |
|--|-------------------------------------|--------------|--------------------------|
| Noise Impact Assessment Report 230514R1, Rev 2 | Rodney Stevens Acoustics Pty Ltd | 7/8/23 | D08708484 |
| Plan of Management | Jack & Jill Kindergarten | Aug 2023 | D08708487 |
| Waste Management Plan | Woojin Kang (Director) | 2/3/23 | D08650545 |
| Materials and Finishes | Boss Design | undated | D08650546 |
| BCA 2019 Section J DTS Report | AENEC | 15/3/23 | D08650549 |
| Survey Plan A-01 | Boss Design | Aug 2023 | D08707602 |

Reason: To ensure all parties are aware of the approved plans and supporting documentation that apply to the development.

2. Amendment of Plans

- a) To comply with Councils requirement in terms of privacy, the approved plans are to be amended as follows:

- i) Screen planting is required along the southern and western boundaries where there is not currently landscaping to prevent privacy impacts to the adjoining residential properties;
 - ii) The sliding door (D04) on the western elevation is to be replaced with a window with increased sill height; and
 - iii) The sill heights of the window to the meeting room required in ii) above (D04) and staff room (W02) on the western elevation are to be a minimum height of 1.5 metres above the finished floor level.
- b) These amended plans must be submitted with the application for the Construction Certificate.

Reason: To require minor amendments to the approved plans and supporting documentation following assessment of the development.

3. Construction Certificate

- a) A Construction Certificate is required to be approved by Council or a Principal Certifier prior to the commencement of any construction works under this consent.
- b) The Construction Certificate plans must be consistent with the Development Consent plans.

Reason: To ensure that detailed construction certificate plans are consistent with the approved plans and supporting documentation.

4. Section 7.12 Development Contributions

- (a) In accordance with Section 4.17(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 7.12 Development Contributions Plan 2019 - 2029*, **\$2,316** must be paid towards the provision, extension or augmentation of public amenities or public services, based on development costs of **\$231,600**.
- (b) The value of this contribution is current as of **30 August 2023**. If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 7.12 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

Where:

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

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

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

CPI_{DC} is the Consumer Price Index (Sydney - All Groups) for the financial quarter at the date of this Development Consent.

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

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

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

Reason: To address the increased demand for community infrastructure resulting from the approved development.

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

5. Building Code of Australia

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

Reason: Prescribed condition - EP&A Regulation section 69(1)

6. Sydney Water

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

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

Reason: To ensure the development is provided with the relevant utility services.

7. Stormwater Drainage

The stormwater drainage system for the development must be designed for an average recurrence interval (ARI) of 20 years and be gravity drained in accordance with the following requirements:

- a) Connected to the existing internal drainage system.

Reason: To ensure appropriate provision for management and disposal of stormwater.

| |
|------------------------------|
| BEFORE WORK COMMENCES |
|------------------------------|

8. Erection of Construction Sign

- a) A sign must be erected in a prominent position on any site on which any approved work is being carried out:
 - i) Showing the name, address and telephone number of the principal certifying authority for the work;
 - ii) Showing the name of the principal contractor (if any) for any demolition or building work and a telephone number on which that person may be contacted outside working hours; and
 - iii) Stating that unauthorised entry to the work site is prohibited.
- b) The sign is to be maintained while the approved work is being carried out and must be removed when the work has been completed.

Reason: Prescribed condition EP&A Regulation, section 70(2) and (3).

9. Protection of Adjoining Areas

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

- a) Could cause a danger, obstruction, or inconvenience to pedestrian or vehicular traffic;
- b) Could cause damage to adjoining lands by falling objects; and/or
- c) Involve the enclosure of a public place or part of a public place; and/or
- d) Have been identified as requiring a temporary hoarding, fence, or awning within the Council approved Construction Management Plan (CMP).

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

Reason: To ensure public safety and protection of adjoining land.

10. Toilet Facilities

- a) To provide a safe and hygienic workplace, toilet facilities must be available or be installed at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet for every 20 persons employed at the site.
- b) Each toilet must:

- i) be a standard flushing toilet connected to a public sewer; or
- ii) be a temporary chemical closet approved under the *Local Government Act 1993*.

Reason: To ensure adequate toilet facilities are provided.

11. Erosion and Sediment Control

To protect the water quality of the downstream environment, erosion and sediment control measures must be provided and maintained throughout the construction period in accordance with the manual *'Urban Stormwater: Soils and Construction "The Blue Book" 2004 (4th edition)*, the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sediment control devices must remain in place until the site has been stabilised and revegetated.

Note: On the spot penalties may be issued for any non-compliance with this requirement without any further notification or warning.

Reason: To minimise impacts on the water quality of the downstream environment.

DURING BUILDING WORK

12. Construction Work Hours

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

Reason: To protect the amenity of neighbouring properties.

13. Council Property

To ensure that the public reserve is kept in a clean, tidy, and safe condition during construction works, no building materials, waste, machinery, or related matter is to be stored on the road or footpath.

Reason: To protect public land.

14. Compliance with Acoustic Report

All control measures nominated in the Noise Impact Assessment prepared by Rodney Stevens, dated 7 August 2023, Report 230514R1, Rev 2 must be implemented.

- a) Install 2.1 metre high solid barrier along the south boundary to mid position of the west boundary as demonstrated in Figure 2-2.
- b) The windows are to be configured as shown in Figure 2-2. Glazing for sliding doors and window on the southern exterior façade must have a minimum Rw32.
- c) Install sound absorptive material to at least 50% of the ceiling/roof area above the outdoor play, with a minimum rating of NRC 0.7.

Reason: To ensure the operational measures implemented protect the amenity of the local area.

15. Environmental Management

To prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction, the site must be managed in accordance with the publication *'Managing Urban Stormwater - Landcom (March 2004)* and the *Protection of the Environment Operations Act 1997*.

Reason: To minimise impacts to the natural environment and public health.

16. 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.

Reason: To protect the natural features of the site.

17. Waste Management

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

Reason: To ensure the management of waste to protect the environment and local amenity during construction.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**18. Damage to Council Assets**

To protect public property and infrastructure, any damage caused to Council's assets as a result of the construction or demolition of the development must be rectified by the applicant in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions). Rectification works must be undertaken prior to the issue of an Occupation Certificate, or sooner, as directed by Council.

Reason: To ensure public infrastructure and property is maintained.

19. Completion of Works

All engineering works identified in this consent are to be completed and a Compliance Certificate issued by a suitable qualified engineer prior to the issue of an Occupation Certificate.

Reason: To ensure engineering works are completed.

20. Certification of Acoustic Measures

Before the issue of an Occupation Certificate, a suitably qualified person must provide details demonstrating compliance to the Principal Certifier and Council that the acoustic measures have been installed in accordance with the acoustic report approved under this consent.

Reason: To protect the amenity of the local area.

25. Compliance with Plan of Management

All control measures and procedures nominated in the Plan of Management, prepared by The Jack & Jill Kindergarten Hornsby, dated August 2023 must be implemented.

Reason: To ensure the operational measures implemented protect the amenity of the local area.

- END OF CONDITIONS -

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000*, other relevant legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

Environmental Planning and Assessment Act 1979 Requirements

The *Environmental Planning and Assessment Act 1979* requires:

- The issue of a construction certificate prior to the commencement of any works. Enquiries can be made to Council's Customer Services Branch on 9847 6760.
- A principal certifying authority to be nominated and Council notified of that appointment prior to the commencement of any works.
- Council to be given at least two days written notice prior to the commencement of any works.
- Mandatory inspections of nominated stages of the construction inspected.
- An occupation certificate to be issued before occupying any building or commencing the use of the land.

Long Service Levy

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

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

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

Tree and Vegetation Preservation

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

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

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

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

Covenants

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

Dial Before You Dig

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

Telecommunications Act 1997 (Commonwealth)

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

Asbestos Warning

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

www.environment.nsw.gov.au

www.adfa.org.au

www.safework.nsw.gov.au

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

Rain Water Tank

It is recommended that water collected within any rainwater tank as part of the development be limited to non-potable uses. *NSW Health* recommends that the use of rainwater tanks for drinking purposes not occur where a reticulated potable water supply is available.