



BUSINESS PAPER

LOCAL PLANNING PANEL MEETING

**Wednesday 26 July 2023
at 4:00pm**



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GENERAL BUSINESS

Local Planning Panel

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1 DA/737/2022 - CONSTRUCTION OF A SPORT & RECREATION FACILITY - 639 OLD NORTHERN ROAD, DURAL

DA No:	DA/737/2022 (Lodged on 19 July 2022)
Description:	Construction of a sport and recreation facility containing a two-storey assembly building with an indoor sports field, offices, reception areas, gym with internal and external training areas on first floor, 6 external sports fields, and a carpark
Property:	Lot 11 DP 243960, No. 639 Old Northern Road, Dural
Applicant:	The Trustee for MKD Architects Trust
Owner:	Urban Soccer Pty Ltd
Estimated Value:	\$11,321,597
Ward:	A Ward
Clause 4.6 Request:	N/A
Submissions:	21 submissions and 4 petitions
LPP Criteria:	10 or more unique submissions were received by way of objection
Author:	Katrina Maxwell, Senior Town Planner
COI Declaration:	No Council staff involved in the assessment of this application have declared a Conflict of Interest.

RECOMMENDATION

THAT Development Application No. 737/2022 for a recreation facility (outdoor and indoor) at Lot 11 DP 243960, No. 639 Old Northern Road, Dural be refused for the reasons detailed in Schedule 1 of LPP Report No. LPP25/23.

EXECUTIVE SUMMARY

- The application involves construction of a sport and recreation facility containing a two-storey assembly building with an indoor sports field, offices, reception areas, gym with internal and external training areas on first floor, 6 external sports fields, and a carpark.
- The proposal does not comply with the requirements of the Hornsby Development Control Plan 2013 with regard to biodiversity; transport and parking; effluent disposal; noise and vibration; and crime prevention.
- Between 26 July 2022 and 16 August 2022. The development application was placed on public notification. A total of 16 submissions, and three petitions containing a total of 11 names in objection and six submissions in support of the proposal were received in respect of the application.
- Between 21 March 2023 and 13 April 2023 amended plans were placed on public notification. A total of 5 submissions, and a petition containing a total of 12 names in objection have been received in respect of the amended application.
- The application is required to be determined by the Hornsby Council Local Planning Panel as 10 or more unique submissions were received by way of objection.
- It is recommended that the application be refused.

BACKGROUND

On 20 September 2019, a Pre-Lodgement Meeting (PL/59/2019) was held to discuss the proposal for a recreation facility (outdoor). Two plans were presented. Both plans both contained a small office building and an on-site detention pond. One plan included 7 on-grade soccer pitches, and one plan contained 8 on-grade soccer pitches.

On 19 July 2022, this development application (DA/737/2022) was lodged. The proposed development as submitted is substantially different to both of the proposals presented at the prolongment meeting PL/59/2019.

On 18 August 2022, the proposal was presented to Council's internal Development Advisory Panel (DAP). At this meeting, the panel recommended issues for further consideration.

On 15 September 2022, a meeting was held with the Applicants to discuss concerns regarding the proposal.

On 19 September 2022, a request for additional information was sent to the Applicant.

On 7 October 2022, the Applicant requested an extension to submit sketch amendments for discussion and preliminary review by 21 October 2022. Council advised that the additional time requested, and that the any plans would be in sketch/concept stage would be inappropriate. Council recommended the Applicant withdraw the development application and resolve any outstanding issues prior to submitting a new development application.

On 11 October 2022, the Applicant submitted a letter providing advice on how they intended to respond to the outstanding information/ issues.

On 14 October 2022, Council granted a request for an extension of time to submit sketch amendments for discussion and preliminary review by 21 October 2022.

On 17 October 2022, Council sent the Applicant a more comprehensive request for additional information.

On 21 October 2022, sketch plans were received however these plans raised additional concerns.

On 19 December 2022, the development application was discussed at the Hornsby Local Planning Panel. The Panel resolved to allow the Applicant to submit additional information and set a deadline of June 2023 for the application to be presented to the Hornsby Local Planning Panel for determination.

On 19 March 2023, a revised submission package was received with amended plans and amended reports in support of the significantly amended proposal.

On 5 April 2023, correspondence was received from Sydney Water confirming that the pressure sewer-main on Old Northern Road is not available for property connections.

On 26 April 2023, the development application was referred to the Hornsby Local Planning Panel who resolved that:

The Panel requests that Council meet with the applicant to request they withdraw the development application, and if unsuccessful, that a report be prepared for determination of the application by the HLPP for the June 2023 meeting or earlier.

The Panel has made no decision regarding the determination outcome other than direct that the application be brought to the Panel for determination as the application is more than 180 days.

On 26 April 2023, Council contacted the Applicant and requested they withdraw the development application.

On 2 May 2023, Council met with the Applicant. The Applicant was granted until 17 May 2023 to provide all outstanding technical documents and amended plans.

On 17 May 2023, the Applicant provided updated stormwater, flooding, and acoustic documents as well as an amended ground floor plan. However, a number of requested amendments, and technical documents were not provided.

On 18 May 2023, correspondence was received from Sydney Water reiterating that connection to the sewer main in Old Northern Road was not available.

On 24 May 2023, Council's Assessment Officer and Tree Protection Officer met with the Applicant on site.

On 21 May 2023, The Applicant briefed the Hornsby Local Planning Panel (HLPP) at its May meeting. The HLPP resolved that:

- *The Panel notes that the Applicant has provided further amended plans and supporting documentation to respond to issues raised by Council and the applicant has advised that no further information is required to be submitted.*
- *The Panel notes that the submitted information has been provided in the last few days and the applicant is not requesting additional time to provide any further information.*
- *The Panel requests that Council review the recently submitted information and that a report be prepared for determination of the application by the HLPP for the July 2023 meeting.*

Since the development application was lodged in July 2022, the Applicant has worked with Council to resolve a number of issues including:

- Stormwater drainage.
- Flooding.

- Reduction in size and relocation of the amenities building.
- Setbacks.
- Road widening and the provision of a deceleration lane on Old Northern Road.
- Additional landscaping to all boundaries.
- Additional waste management details.
- Acoustic screening on side and rear boundaries.
- Tree removal and retention.

The proposal represents a significant improvement compared to the development application as lodged, however a number of issues require additional information and further resolution, including:

- Effluent Disposal - An on-site wastewater system has not been proposed as part of the development and there is no certainty as to whether a connection to a Sydney Water sewer main can be achieved to the satisfaction of Sydney Water.
- Acoustic impacts - particularly offensive noise to adjoining properties.
- Clarification on patron numbers and the resultant impact on the acoustic report; and traffic and parking demand.
- Insufficiencies in the submitted Plan of Management.
- Removal of the bus stop on Old Northern Road.
- Inadequate information provided in the submitted Landscape Plan.
- Lack of detail regarding signage.

SITE

The 2.2 hectare site is located on the eastern side of Old Northern Road and contains a dwelling house and associated outbuildings (Figure 1). The site has fall of 9 metres from the front to the rear of the site (22% slope). The site also has cross fall of approximately 10 metres from the southern side to the northern side of the site.

The western side of Old Northern Road is located within The Hills Shire.

The site is served by an accessway that is located within the access handle of the adjoining properties Nos. 631-637 (assumed, it is not entirely clear on the provided survey).

The property is located adjacent to areas of vegetation mapped as containing Blue Gum High Forest, which is a Critically Endangered Ecological Community.

The site contains a small portion of bushfire prone land located in the southwestern corner. The access handle is also identified as bushfire prone.

There is a watercourse to the south-east of the site, approximately 16 metres from the rear boundary of the site. The watercourse is a tributary of Georges Creek.

Part of the land is burdened by a restriction registered on title under the *Roads Act 1924* for the widening of Old Northern Road. High and low voltage power lines controlled by Endeavour Energy are located along the site's street frontage.



Figure 1 Aerial Photo of Site (Source: Intramap)

PROPOSAL

The proposal is for the demolition of a dwelling house and construction of an indoor and outdoor recreation facility including playing fields, amenities building and car parking, comprising the following works:

- 6 artificial playing fields for 5 a side soccer games (including lighting).
- Gymnasium.
- Amenities building containing a café/canteen, two lounges, offices, gym, change rooms, toilets, saunas, first aid room and outdoor seating area.
- 100 car parking spaces.

The proposed development would require the removal of 35 trees, and 4 trees would be impacted by the proposal.

Landscaping comprising of 195 trees, 916 shrubs and 3644 groundcovers is shown on the submitted plans (Figure 2).



Figure 2 Extract of Landscape Plan (Source: Taylor Brammer)

Signage

Signage consists of the following:

- Large non-illuminated signage “Footballco” or similar at the front of the site.

Operational Details

The hours of operation of the sports facility are between 6:00am to 10:00pm daily.

- Between 6:00am and 9:00am, the facility is intended to be limited to high performance training usually on two of the playing fields.
- Between 9:00am and 3:00pm on weekdays the facility would be used for schools/ all abilities, and casual games on the weekend.
- Between 5:00pm and 10:00pm on weekdays the facility would be used for league and social games.
- On weekends the facility would be used for high performance games between 6:00am – 9:00am, casual games between 9am and 3:00pm, and social games between 5:00pm and 10:00pm.
- Games would conclude before 10:00pm each night and the facility would close at 10:00pm.

It is anticipated that the sports and recreational facility would be hired out to schools and sports teams. Games would typically be 50 minutes long, with a 10 minute time buffer between games.

A café would operate on site and would cater to approximately 40 patrons.

The player's lounge is a dedicated area intended to be used by players of the sports and recreational facility prior to and after games as a breakout and social space. There will be no gambling facilities or service of liquor provided in the sports and recreational facility.

Patron Numbers

The Applicant has provided advice that the maximum number of patrons on site at any one time is 90. However, is it uncertain whether this figure is correct. If all six playing fields were at full occupancy, this would be a total of 60 patrons. This leaves a total allowance of 30 patrons for spectators, café patrons, gym patrons including group classes, and patrons in the players' lounge. This figure is not considered to be accurate. The original wastewater report submitted with the development application identified 150 gym patrons, 100 spectators and 50 café patrons which appears to be more accurate reflection of the intended use. Accurate patron numbers were requested to correctly assess wastewater impacts, car parking, traffic, and noise.

Amended supporting documents have been subsequently submitted, however none of the supporting documents provide a comprehensive breakdown of patron numbers detailing all facets of the development.

Employee Numbers

The Applicant has provided advice that the maximum number of staff is between 6 and 9 staff members (including 4 permanent staff members and 2 café staff).

It is considered that the 6-9 employees would not include personal trainers in the gym for one-on-one sessions and scheduled classes as per the Plan of Management, cleaning and maintenance staff, referees, servers in the players' lounge, reception staff and first aid officers. The Operational Plan of Management identifies the need for a centre manager and for administrative staff to manage the proposed mobile garbage bins (MGB), and external staff on site during operating hours for waste collection, cleaning, and maintenance. The POM also identifies the potential for volunteers on the site.

The café area is 49.9m² with an additional 343.9m² of 'breakout' seating area on the first floor. It is unknown how many staff would be required to service a café of this area.

The ground floor office is 259m², and with a first-floor sports field staff room and offices have a total area of 219.3m². Therefore, the office space is capable of accommodating a significant number of staff and potentially therefore impacting traffic generation and car parking demand.

A table is provided below, summarising the inconsistencies occupant numbers specified in respective supporting documents:

Document	Staff	Patrons	Total
Original traffic report	6	90 + 21 gym patrons	117
Traffic Letter dated 31/05/2023 (upper limit based on children's games)	9	70 players + 70 Spectators	149
Plan of Management	6	90	96
BCA Report (based on floor area)	Not provided	400 Patrons (incl. 150 gym patrons)	400
Wastewater Report	6	100 spectators 50 café patrons 150 gym patrons	306
Acoustic Report 28/03/2023	Not provided	40 Café patrons	>40

Acoustic Addendum	Not provided	24-40	24-40
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Engineering Works

Plans have been revised to illustrate a 3.5m wide development setback along the Old Northern Road frontage beyond the road widening order to accommodate a like for like deceleration lane and right turn storage bay as part of future upgrades to Old Northern Road.

A Bus Stop at the front of 629 Old Northern Road would be removed by the development.

Stormwater disposal would be via a rip rap system on the northeastern corner of the site then piped to a tributary of Georges Creek within the adjoining property to the east. As the watercourse does not begin at the boundary of the subject site, an easement would be required over the adjoining property to connect the stormwater to the watercourse.

Up to 3.5 metres of fill is proposed in the northeastern corner of the site, and a 3.5 metres cut would be required in the southern portion of the site.

The Applicant proposes to construct a private gravity sewer main to connect into Sydney Water's reticulated sewerage system. However, given the lack of detail submitted by the application in relation to the proposed private gravity sewer main, this has not been assessed as part of this development 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 for 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.

The NSW Government will use the subregional planning process to define objectives and set goals for job creation, housing supply and choice in each subregion. Hornsby Shire has been grouped with Hunters Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Ryde, Northern Beaches and Willoughby to form the North District. The Greater Sydney Commission has released the North District Plan which includes priorities and actions for Northern District for the next 20 years. The following Planning Priorities are considered relevant to the proposal:

- Planning Priority N2 - A City Supported by Infrastructure.
- Planning Priority N18 - Better Managing Rural Areas.

In giving effect to A Metropolis of Three Cities, this Planning Priority delivers on the following objective and the corresponding strategies:

- Objective 29 - Environmental, social, and economic values in rural areas are protected and enhanced.

Whilst the proposed recreation facility would enhance the social and economic values of the rural area, by providing employment opportunities and creating a destination location for functions, there are remaining outstanding environmental concerns in relation to wastewater, landscaping species, traffic and acoustic impacts as discussed in detail in this report.

1.2 Hornsby Shire Rural Lands Strategy

The Rural Lands Study was adopted in May 2022. The Strategy provides key principles and recommendations for managing rural lands into the future and addresses obligations for rural lands prescribed by the State Government. It will set a strategic direction for rural areas and will inform amendments to the Local Strategic Planning Statement (LSPS) and planning controls including the Hornsby Local Environmental Plan 2013 and the Hornsby Development Control Plan 2013.

The principals and vision of the Rural Lands Strategy, include:

- *Hornsby Shire's rural area continues to grow as a visitor destination.*
- *Rural scenic landscape values are protected and enhanced.*
- *New development is designed and sited to support and enhance scenic values of the relevant landscape area.*
- *The character of rural villages is maintained as important local service and community nodes.*
- *Biodiversity and habitat areas are protected, and conservation measures are enhanced.*

The proposed land use would be inconsistent with these principles in that whilst extensive landscaping screening of the development is proposed, the landscape species selected do not reflect vegetation indicative of the Blue Gum High Forest. This would have a negative impact on the biodiversity of the area.

2. STATUTORY CONTROLS

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

2.1 Hornsby Local Environmental Plan 2013

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

2.1.1 Zoning of Land and Permissibility

The subject land is RU2 Rural Landscape under the HLEP. The objectives of the RU2 zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To encourage land uses that support primary industry, including low-scale and low-intensity tourist and visitor accommodation and the provision of farm produce direct to the public.*

- *To ensure that development does not unreasonably increase the demand for public infrastructure, services or facilities.*

Recreation Facility (Outdoor) is defined as:

Recreation facility (outdoor) means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

The soccer fields meet the definition of a recreation facility (outdoor) and is therefore permissible in the RU2 Rural Landscape Zone. The gym is a recreation facility (indoor) and is permissible in the RU2 Zone.

The café is not permitted in the RU2 Zone and would need to be operated ancillary to the recreation facility. If Council were to approve the development application, the use of the café would be regulated by way of condition/s of Consent.

With regards to the objectives of the zone, the proposed development is unable to connect to a Sydney Water Sewer main and therefore it is considered that the site does not have the infrastructure capacity to support the proposed development. The number of patron numbers on site at any one time is unclear, therefore Council is unable to fully assess the impact of the proposal with respect to traffic and parking.

The proposal is likely to adversely affect the location of a bus stop on Old Northern Road, removing the availability of this public infrastructure asset, and increasing reliance on private vehicle travel to the site.

2.1.2 Height of Buildings

Clause 4.3 of the HLEP provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 10.5 metres. The proposal has a maximum height of 10.48 metres and complies with this provision.

2.1.3 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.

2.1.4 Earthworks

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

An Earthworks Report prepared by J. Wyndham Prince dated 22 February 2023 accompanied the development application.

The application proposes excavation to create a level building pad for the facilities building and creating an area for the overland flow path. This excavation would entail the removal of 3200m³ of soil from the site. At its deepest point, the excavation would be 3.5 metres below the existing ground level, with most of the excavation works being confined to the south-eastern portion of the site. Up to 3.5 metres of fill is proposed with the majority being at the northern eastern portion of the site.

Approximately 10,000m³ of fill would be required for the carpark pavement, court pavement and building pad. 6800m³ of this fill would be imported to the site.

A preliminary Traffic Management Plan has been requested, but not provided by the Applicant. However, if the development application was to be approved, a Traffic Management Plan would be required as a condition of consent.

Matter for Consideration	Comment
(a) The likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development	The proposal is not considered to have a disruption or detrimental effect on drainage patterns in the locality, subject to the imposition of a stormwater drainage system connecting via easement to Georges Creek.
(b) The effect of the development on the likely future use or redevelopment of the land	The proposed cut and fill will provide a level building pad which could facilitate other development in the future. The proposed land use is not a source of contamination and would not sterilise the site from future development.
(c) The quality of the fill or the soil to be excavated, or both	The applicant provided a Preliminary Site (Contamination) Investigation
(d) The effect of the development on the existing and likely amenity of adjoining properties	An updated construction management plan (CMP) and construction traffic management plan (CTMP) have been requested and have not been provided. However, if approved this would have formed a condition of consent.
(e) The source of any fill material and the destination of any excavated material	No material exported off the site. VENM or ENM fill material would be imported to the site.
(f) The likelihood of disturbing relics	Council has no record of any historical items or events of note on the subject site, of either Aboriginal or European Heritage. An AHIMs search did not identify any aboriginal items within 200 metres of the site. It is therefore considered that the proposed works are unlikely to disturb any relics.
(g) The proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area	The closest waterway to the site is an ephemeral tributary of Georges Creek, which is located approximately 110m to the south-east of the site. Subject to the implementation of sediment and erosion control, and appropriate devices for stormwater disposal, the proposed development would have negligible impact on this adjoining waterway in respect

	to stormwater. However, without connection to a reticulated sewerage system or on-site wastewater system, is it considered that there is the potential for adverse impacts on the waterway and the BDAR mapped riparian vegetation of this waterway.
(h) Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development	Given the recommendation for refusal, no conditions of consent have been recommended.

The proposal generally complies with the desired outcomes of Clause 6.2 of the HLEP and is considered acceptable.

2.2 Water Management Act 2000

Pursuant to the *Water Management Act 2000*, development within 40 metres of a natural watercourse, requires a Controlled Activity Approval from the NSW Resource Access Regulator. The development application was referred to NSW Planning and Environment - Water and General Terms of Approval were granted.

2.3 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The application has been assessed against the requirements of Chapter 3 and 6 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

2.3.1 Chapter 4 Koala Habitat Protection 2021

Chapter 4 applies to all sites in the Hornsby LGA over 1 hectare in size.

Where no approved koala plan of management applies to the land, Council must assess whether a development is likely to have an impact on koalas. If Council is satisfied that there would be no or low impact to koalas, the development application can be considered. Alternatively, a suitability qualified person may prepare a report stating that there are no tree species used by koalas on the site, or that the site is not core koala habitat.

A Koala Assessment Report was prepared by Eco Logical Australia (dated 11 July 2022). While koala feed trees exist on site, these trees were not considered to be of high value for koalas. No koalas or evidence of koala were detected during koala surveys. Therefore, the habitat within the site is unlikely to provide core koala habitat and no further assessment under this chapter of the SEPP is required.

Therefore, the proposal complies with Chapter 4 of the Biodiversity and Conservation SEPP.

2.3.2 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. This chapter 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.

The applicant has been unable to demonstrate a suitable method for the disposal of wastewater for the development and Council is unable to determine the impacts of the development on water quality in the catchment.

As such the proposal would impact on the water quality of the catchment and would not comply with the requirements of chapter 6 of the Biodiversity and Conservation SEPP.

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 the Resilience and Hazard SEPP 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.

Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make the land suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

The Applicant has provided advice that the site was previously used for strawberry farming.

A Stage 2 contamination report - Detailed Site Investigation was prepared by Coleman & Adams Environmental (dated 14 June 2022) in support of the development application.

The findings of the Contamination Report conclude that *“the site does not present a risk to human health or the environment in a ‘standard residential’ setting, and no additional investigation or ongoing site monitoring is required.”* Based on the findings of the report, Council has determined that no further contamination investigation is required.

The proposal complies with Resilience and Hazards SEPP and is considered acceptable in this regard.

2.5 State Environmental Planning Policy (Transport and Infrastructure) 2021

Old Northern Road is a Classified Road, and the proposal is subject to concurrence from Transport for NSW in respect to requirements of Chapter 2 of State Environmental Planning Policy (Transport and Infrastructure) 2021.

2.5.1 Frontage to a Classified Road

The application is subject to assessment under Section 2.119 of the Transport and Infrastructure SEPP given the proposal has a frontage to a classified road being Old Northern Road.

The objectives of Section 2.119(2) of the Policy are:

- (1) *The objectives of this section are—*
 - (a) *To ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
 - (b) *To prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

Section 2.119(2) of the Policy states:

- (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*
 - (a) *Where practicable, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) *The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *The design of the vehicular access to the land, or*
 - (ii) *The emission of smoke or dust from the development, or*
 - (iii) *The nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) *The development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

In regard to Section 2.119(2)(a), vehicle access to the site via an alternative road, other than a classified road is not feasible. Access to the sporting facility would be via a new accessway fronting Old Northern Road. Temporary vehicle access during construction would be via the existing right-of-carriageway to Old Northern Road. The Right of carriageway (3.65m wide) burdens 633 and 635 Old Northern Road and benefits 635 and 639 Old Northern Road.

Transport for NSW have provided support for the proposed access to the site from Old Northern Road.

In regard to Section 2.119(2)(b), Council's Traffic and Road Safety Team assessed the proposed design and raised no objections to the proposed application subject to conditions. The proposed development would not result in the emission levels of dust or smoke.

In regard to Section 2.119(2)(c), the development is not of a type that is not sensitive to traffic noise or vehicle emissions. The development is appropriately setback from the road with sufficient landscape screening at the frontage of the site, which is the highest point on the site.

The proposal complies with Section 2.119 of Transport and Infrastructure SEPP and is considered acceptable in this regard.

2.5.2 Traffic generating development

Section 2.122 Traffic Generating Development of Transport and Infrastructure SEPP is triggered when 50 or more motor vehicle per hour are proposed to a site with access to a classified road. There is no specific capacity listed for a recreation facility (outdoor) so the category "all other development" in Schedule 3 of the Transport and Infrastructure SEPP has been considered in this instance.

The Traffic and Parking Assessment Report by Varga Traffic Planning Pty Ltd identifies the potential of 113 vehicle trips per hour. The traffic assessment assumes a total maximum site occupancy at any one time of 96 patrons and staff. However, it is considered the total potential occupancy rate at the site at any one time could far exceed 96 patrons and staff and therefore the vehicle trips per hour would be higher.

An addendum Traffic and Parking Assessment dated 31 May 2023 was submitted which identified a maximum of 70 soccer player and 70 spectators and 9 staff on site on any one time (based on children's games). The addendum report identified that fewer spectators would be on site during adult games (total of 95 occupants on site).

Development applications triggering the requirements under Section 2.122 are required to be referred to Transport for NSW as integrated development. This development application was referred to Transport for NSW pursuant to Section 2.122. Transport for NSW provided advice pursuant to Clause 2.119 and 2.122. Transport for NSW have no objection to the proposal subject to compliance with conditions of concurrence.

However insufficient information regarding patron numbers has been provided to enable Council to undertake an accurate assessment of traffic generation to ensure the requirements of the Transport and Infrastructure SEPP have been adequately addressed.

2.6 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.

2.6.1 Advertising and Signage

The proposed signage has been assessed against the requirements of Chapter 3 of the Industry and Employment SEPP. This Policy provides State-wide planning controls for advertising signs and prevails over other environmental planning instruments including the HLEP and the Hornsby Development Control Plan 2013. The aims of the Policy are to ensure that advertising and signage is compatible with the desired amenity and visual character of an area, to provide effective communication in suitable locations and to ensure signage is of high-quality design and finish.

Old Northern Road is a classified road and therefore the Transport Corridor Outdoor Advertising and Signage Guidelines apply to this site.

A Signage site plan was submitted with the development application, which identifies a large non - illuminated sign with the text "Footballco" or similar at the front of the site, south of the access driveway. However, the dimensions and design of the sign are unknown.

Therefore, insufficient information has been provided to enable a complete and accurate assessment of signage against the Industry and Employment SEPP.

2.7 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.

2.8 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the Hornsby Development Control Plan 2013 (HDCP) as outlined in Part 1 and Part 2 of the HDCP. Detailed assessment of the relevant planning controls is provided below.

2.8.1.1 Tree and Vegetation Management

Part 1B.6 Tree and Vegetation Preservation of HDCP applies to this development application.

Thirty-six trees are proposed to be removed, and 3 trees would be impacted as a result of this development. An Arboricultural Impact Assessment and Tree Management Plan were prepared by Redgum Horticultural (dated 31 May 2023) in support of this development application.

The report notes that 40 trees are considered to be within the works zone of the property, including 27 trees numbered 8, 9, 10, 11, 12, 13, 14, 15, 16, 24, 25, 26, 27, 34, 36, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, required to facilitate the building footprint.

Trees numbered 64, 65, 66, 67, 68, 69, 70, 71 and 72 (9 trees) are all located on the nature strip. These trees are required to be removed to facilitate the construction of the layback.

Four trees would be required to be retained with tree sensitive protection measures.

According to the AIA, the remaining 53 trees on the property are considered outside the proposed development.

The proposal indicates trees numbered 9, 11, 12, 13, 14, 16, 26, 27, 36, 38, 39, 40, 41, 42, 43, 44, 45, 46 and 49 are located within the building envelope or footprint and would require removal if the proposal is granted consent. (Trees 8, 10, 15, 34, 47 and 48 are exempt species under HDCP Tree Preservation Measures and tree 25 was removed under RFS 10/50 land clearing entitlement of the existing dwelling according to AIA).

Tree number 24 is impacted by the building envelope, tree number 35 is impacted by the sound wall and trees numbered 52 and 53 are impacted by the carpark.

Trees numbered 24 and 35 are protected locally significant trees and trees numbered 52 and 53 are threatened species in good condition with high SULE rating, significant in the landscape and worthy of retention. These three trees can be successfully retained through the use of sensitive methods of construction as prescribed in AS4970-2009 which is consistent with the HDCP which aims to ensure development explores all options to avoid, minimise or mitigate impacts to trees.

2.8.1.2 Site preparation

The proposal indicates fill will be required to create an appropriate building platform, and forms an incursion of 10-15% of the TPZ of tree/s numbered 24 and 35. This is considered acceptable if being used in conjunction with piers and the fill material used is gap graded soil or similar material that can be compacted yet provide suitable conditions that will facilitate root growth and allow the tree roots to take advantage of this additional material to colonise and increase water and nutrient absorption.

Trees numbered 24, 35, 52 and 53 are resilient species in relation to impacts resulting from development and there are numerous examples where these trees have been successfully retained where minor incursion have occurred, and appropriate tree protection measures and management

has been applied in accordance with the Australian Standard AS4970-2009 Protection of trees on development sites.

If Council were to approve the development application, a condition of consent would be imposed requiring permanent permeable paving to be installed within the TPZ of trees numbered 52 and 53 to in conjunction with permanent tree barriers.

2.8.1.3 Tree Removal

The current proposal will result in the removal of 35 trees numbered 8, 9, 10, 11, 12, 13, 14, 15, 16, 25, 26, 27, 34, 36, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 64, 65, 66, 67, 68, 69, 70, 71 and 72. Whilst tree loss is not ideal, there is sufficient space on the site to provide compensatory plantings of locally occurring species to maintain the local amenity and replace lost canopy.

2.8.1.4 Off-Site Infrastructure and Tree Impacts

A document titled proposed 'Private Sewer Main' was submitted to Council on 31 May 2023 which is an indicative drawing and does not specify its exact location or impacts to any trees and/ or vegetation. The AIA does not assess or discuss the impacts on trees of the proposed private sewer main. Therefore, if further details were to be provided of the private sewer main, Council's Tree Management Team would need to assess the impact of the sewer main on tree removal.

2.8.1.5 Landscaping

The applicant was previously advised that all replacement planting must be locally indigenous, representative of Blue Gum High Forest (BGHF). The current Landscape Plan makes no provision for appropriate BGHF species.

While the on-site tree removal and protection measures of impacted trees is considered generally acceptable, the off-site impacts to trees including street trees and trees required to be removed to facilitate the private sewer main have not been adequately addressed.

The proposal is inconsistent with Part 1B.6 Tree and Vegetation Preservation of the HDCP in respect to landscaping and replacement tree planting.

2.8.2 Biodiversity

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

An Amended Arboricultural Impact Assessment (AIA) has been submitted with the proposal prepared by (AIA by Redgum Horticultural, Revised 31 May 2023 Ref 6888.5).

The proposed development has now been amended to retain the hollow-bearing trees. This includes several mature native planted Eucalyptus species that were originally identified to be removed within the study area including 1x *Eucalyptus saligna* (Sydney Blue Gum), 1x *Eucalyptus botryoides* (Bangalay) and 3x *Eucalyptus robusta* (Swamp Mahogany) that contained hollow-bearing resources for potential use.

The amended Arborist Report considers 40 trees, with Trees 24, 35, 52 and 53 to be retained and protected and Trees 8-16, 26-27, 34-36, 38-49 and 64-72 are recommended to be removed and replaced accordingly.

Council's Natural Resources and Tree Management Team raise no objection to the proposed on-site tree removal subject to the planting of 195 trees replacement trees. However, The Natural Resources Team raised concerns regarding the Landscape Plan which does not include landscape species which are representative of Blue Gum High Forest vegetation community.

It is unlikely proposed stormwater works on 635 Old Northern Road would impact native vegetation within the mapped Biodiversity Values mapped area on the site. However, if Council were to consider approving this development application, further information would have been required to verify this prior to determination.

The on-site tree removal and protection measures of retained trees comply with the desired outcomes of Part 1C.1.1 of HDCP. However, the submitted Landscape Plan is inconsistent with Part 1C.1.1 of HDCP.

2.8.3 Stormwater Management

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

An amended stormwater concept was submitted by JCO Consultants Pty Ltd dated 17 May 2023. The Applicant proposes a stormwater disposal system involving a stormwater swale within the site boundary with a construction of a headwall and rip rap system for energy dissipation. The applicant has stated that an easement is required from the downstream owner as the stormwater will be discharging to within the subject site. Owners' consent from the downstream property owner has been provided.

Council's Development Engineer has assessed the amended plans and is now satisfied that stormwater drainage issues could be resolved subject to a deferred commencement condition should the application were to be recommended for approval.

2.8.4 Watercourses

The Desired Outcomes of Part 1C.1.3 Watercourses of the HDCP are "*Watercourses such as creeks and rivers are retained and enhanced to promote the improvement, and protection of the environment*" and "*Native riparian vegetation areas are retained and enhanced, and degraded riparian areas are rehabilitated*".

The desired outcomes are supported by the prescriptive control that stormwater outlets proposed in the vicinity of a watercourse should:

- Point downstream for the final entry point of the structure.
- Be graded to the bed level of the stream, or just below any permanent water.
- Be located to avoid existing native vegetation.

Council's Development Engineer has assessed the civil works to be connected to the watercourse and considers them to be satisfactory.

The development application was referred to NSW Planning and Environment - Water who provided General Terms of Approval.

The proposal complies with the desired outcomes of Part 1C.1.3 Watercourses of the HDCP and is considered acceptable.

2.8.5 Earthworks and Slope

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

These desired outcomes are supported by prescriptive controls that “*earthworks involving filling should not exceed 1 metre in height from the existing ground level*”, and “*excavation that extends outside of the building platform should be limited to a depth of 1 metre from the existing ground level, unless the excavation is required to achieve a high quality built form or provide for safe vehicular access to the site.*”

An Earthworks Report was prepared by J. Wyndham Prince, dated 22 February 2023 in support of the application.

The application proposes excavation associated to create a level building pad for the facilities building and creating an area for overland flow path. This excavation would entail the removal of 3200m³ of material from the site. At its deepest point, the excavation would be 3.5 metres below the existing ground level, with most of the excavation works being confined to the south-eastern portion of the site. Up to 3.5 metres of fill is proposed with the majority being at the northern eastern portion of the site.

Approximately 10,000m³ of fill would be required for the carpark pavement, court pavement and building pad. An estimated 6800m³ would be imported to the site.

Although the extent of cut and fill exceeds the prescriptive controls under the HDCP, the excavation and fill would be contained within the building footprint and would not be discernible from the street or adjoining properties. Therefore, there would be no visual or environmental impact as a result of the proposed excavation and fill. It is acknowledged that a level site is required to facilitate a sporting field which would result in significant cut and fill.

The proposal generally complies with the desired outcomes of Part 1C.1.4 Earthworks and Slope of the HDCP and is considered acceptable in this regard.

2.8.6 Vehicular Access and Parking

The desired outcomes of Part 1C.2.1 Transport and Parking are “*Development that manages transport demand around transit nodes to encourage public transport usage*”, “*Car parking and bicycle facilities that meet the requirements of future occupants and their visitors*” and “*Development with simple, safe and direct vehicular access.*”

2.8.6.1 Car Parking

Prescriptive controls relating to transport and parking are contained within Part 1C.2.1 Transport and Parking of the HDCP. Part 1C.2.1 of the HDCP does not specify a specific car parking rate for recreation facility (outdoor) and refers to the RTA Guide to Traffic Generating Development which requires the preparation of a traffic report.

The Traffic Report submitted by Varga Traffic Planning Pty Ltd (dated 11 July 2022 and revised on 14 March 2023) based their assessment of the car parking rate under the RTA guidelines for gymnasiums for the indoor component of the development (23 spaces) and using the projected traffic movements for the soccer fields (96 patrons and staff).

The Guidelines provide a minimum car parking rate for gymnasiums of 4.5 spaces per 100m² and a desirable provision of 7.5 spaces per 100m². Given the gymnasium is 469m² (rounded up to 500m²), the minimum car parking rate would be 23 spaces. The desired car parking provision would be 38 spaces.

While the traffic report identifies only 6 staff and 90 patrons on the site at anyone, time, the Plan of Management identifies that professional companies would be undertaking cleaning and maintenance work during operational hours. Assuming 6 playing fields, each having 10 players on the field (with no alternates) would account for 60 players and allows for 30 spectators).

The estimated patron numbers only considers the patrons using the soccer fields. The estimated patron numbers do not include patrons using the café, and players' lounge or car parking demand during functions as discussed in "The Proposal" and Section 2.5.2 of this report. Therefore, it is considered that the staff and patron numbers on site at any one time would exceed 96 persons and as such the car parking demand is likely to be higher than the 100 car parking spaces proposed. While is identified that school groups would attend the site by coach, no coach parking would be provided on site.

A number of resident objections were received in relation to car parking impacts from the proposed development, raising concerns that the on-site car parking proposed is inadequate.

On 19 September 2022, Council wrote to the Applicant, requesting the following additional information as per Transport for NSW correspondence.

- a) *Traffic generation and parking demand shall be calculated based on the vehicle occupancy rate and the total number of patrons. The peak parking demand for sporting fields usually occurs between two (2) games, where the players for next game have arrived and the players for current game are still on site. As such, parking survey for similar sites or other evidence should be undertaken to justify the parking demand.*
- c) *The Traffic and Parking Assessment Report only assessed the traffic impact during AM and PM peaks. However, the operational peak of the proposed soccer fields most likely will occur on weekend morning peak for training and/or competition. As such, the traffic impact assessment for the weekend peak should also be undertaken.*

On 14 March 2023, the Applicant provided an addendum to the Traffic Report by Varga Traffic Planning Pty Ltd. This report assumed 96 soccer plays and staff and 21 car parking spaces for the gymnasium, as well as providing a 10 minute "bump in/out" buffer between games.

On 17 March 2023, the Applicant provided an addendum to the Statement of Environmental Effects, breaking down the various uses of facility to provide for high performance athletes between 6am and 9am, school groups during school hours, and casual players on the weekends between 9am and 3pm and league/social games between 5pm and 10pm. However, it is noted that the Plan of Management, prepared on 17 March 2023 does not reflect this breakdown of activities, nor specify any measures to ensure compliance with this breakdown of activities.

On 29 May 2023, the Applicant provided a further addendum to the Traffic Report by Varga Traffic Planning Pty Ltd. This addendum divided the soccer games into two categories, providing car parking rates for each as follows:

- For adult soccer games only scenario, there will be 71 soccer players (including 11 spectators), 21 gymnasium users and 6 soccer staff with a typical vehicle occupancy of 1.36 persons per car. 3 staff members would be on site including 2 café staff (total requirement of 95 spaces).
- For junior soccer games only scenario, spectators will be minimal, predominantly comprising parents of players travelling in the same car. This assumes that there will be 70 soccer players and 70 spectators with a typical vehicle occupancy of 2 persons per car, as well as 9 soccer staff (total requirement of 100 spaces).

However, the Traffic Reports received to date, do not align with the occupant numbers provided in other lodgement documents submitted with the development application. The traffic reports fail to identify the need for car parking for the café and 366m² players' lounge. Concern is raised regarding the potential under-estimate of staff numbers, required to efficiently operate all facets of the development and ensure the carrying out of the Operational Plan of Management.

While it is proposed to have a 10-minute buffer between games to allow for players to leave and new players to arrive, this buffer time is likely to be insufficient as players are likely to utilise the café for meals, the players' lounge for recreation, warm up before games and the amenities such as showers in the amenities building before, between or after games. There may also be players playing two games and therefore staying at the venue for a longer period of time.

Further, the car parking rate for the gymnasium assumes the minimum car parking rate under the RTA Guidelines for Traffic Generating developments. This gymnasium varies from the typical gymnasium model which is located in areas of high employment such as commercial or industrial zones or co-located with other services in shopping centres. This is a stand-alone facility in the RU2 Rural Landscape zone; therefore, it is expected that most patrons will travel by private vehicle. The applicant has stated that the purpose of the gymnasium is rehabilitation and training for high performance athletes and sportspersons. Therefore, it is likely to draw athletes and sportspersons from a wider area than just the local community. As a result, the desired car parking rate of 7.5 car parking spaces per 100m² should be applied in this instance.

In the absence of complete and consistent information regarding the cumulative occupant numbers, and the concerns regarding the 10-minute buffer between games being inadequate, it is considered that 100 on-site car parking spaces proposed would not meet the cumulative on-site car parking needs of the development. There is no on-street carparking available on Old Northern Road in the vicinity of the site to cater for the overflow car parking.

2.8.6.2 Traffic

Given the disparity of occupant numbers discussed in the car parking section above, it is considered that the projected traffic generation may also be inaccurate.

The 10 minute bump in/ bump out time estimation may not provide sufficient time for patrons to leave the site before more patrons arrive. This would lead to inadequate car parking on site, and therefore traffic banking up on Old Northern Road while patrons wait for car parking spaces to become available.

Public objections were raised regarding the inability of the local road network to cope with the existing traffic generation particularly from the Lorien Novalis School, Maronite Church, and large residential developments in the vicinity.

While Transport for NSW and Council's Traffic Engineer do not raise any concerns in relation to traffic safety and generation from the proposal, it is considered that insufficient occupant numbers have been provided, to enable an accurate assessment of the traffic impact. Had a comprehensive assessment of patron and staff numbers been provided, the assessment of the application Transport for NSW and Council's Traffic Engineer may have varied.

The proposal does not comply with the desired outcomes of Part 1C.2.1 Transport and Parking of the HDCP and is considered unacceptable.

2.8.7 Waste Management

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

These desired outcomes are supported by prescriptive controls requiring that *"a Waste Management Plan should be prepared in accordance with Council guidelines and submitted with the development application, to address demolition and construction waste"* and *"new Commercial and Industrial developments proposing on site collection of waste should design for a HRV commercial garbage truck"*.

Council's Waste Management Officer concluded that the waste management system is suitable subject to conditions of consent if approved.

The proposal complies with the desired outcomes of Part 1C.2.3 Waste Management of HDCP and is considered acceptable.

2.8.8 Effluent Disposal

The desired outcome of Part 1C.2.4 Effluent Disposal of HDCP is to ensure that *"sewerage is disposed of in a manner that minimises impacts on the natural and built environment and public health"*

A Wastewater Management Study prepared by GHD (Dated 12 July 022) was initially submitted with the development application. This report identified that an aerated wastewater treatment system (ATWS (with a capacity of 5,840 litres a day was required to service the development, with a treated effluent storage volume of 20kl and an irrigation area of 3,100m² with associated irrigation assets. This capacity was based on total of 306 people on site at any one time. The original proposal also included the retention of the dwelling house.

However, the Wastewater Management Study did not satisfactorily demonstrate that adequate disposal of wastewater could be achieved. The buffer distances from effluent disposal areas to boundaries, buildings and other features were not provided. The number of occupants anticipated at the facility has remained inconsistent. The wastewater system would need to consider wastewater from the café (dish washing and food preparation) and from gymnasium showers and saunas.

Similarly, a pump-out wastewater system would not be supported as a pump out system would not be able to accommodate the peak flow rates with the number and type of users.

Amended plans were submitted dated March 2023. However no amended on-site wastewater report was submitted. The development proposes to rely upon connection to Sydney Water's rising main in Old Northern Road, notwithstanding the development site is not currently served by the Sydney Water Sewer System.

Sydney Water have assessed the application to connect to sewer and have determined in correspondence dated 18 May 2023 that the pressure main on the western side of Old Northern Road is not available for property connections and an on-site wastewater management system is required.

While Sydney Water acknowledge that connection to a gravity sewer main may be feasible, this would be subject to the applicant submitting a Feasibility Application to Sydney Water.

In May 2023, the Applicant provided a diagram of a proposed private sewer main traversing approximately 950 metres within Old Northern Road and connecting to Sydney Water sewer infrastructure. However insufficient details have been provided regarding this proposed private sewer main including civil engineering details, earthworks and tree removal required to facilitate the sewer main connection. Sydney Water have also not provided in-principle support to any private sewer main or connection to Sydney Water infrastructure and their correspondence has stated that the proposal must include wastewater disposal to Council satisfaction.

The Applicant has requested that Council consider a deferred commencement consent to enable investigations with Sydney Water regarding connection to the gravity main.

Deferred commencement consent cannot be supported as there is no certainty that Sydney Water would approve connection to reticulated sewer and the site is not capable of onsite disposal. The applicant has failed to demonstrate that the development has access to essential utility services and the site is suitable for the proposed development.

Consequently, as the applicant has not provided details of a suitable on-site wastewater system prepared by a qualified wastewater consultant prior as part of this development application, Council is unable to support this development application.

The proposal is inconsistent with the desired outcome of Part 1C.2.4 Effluent Disposal of the HDCP and is considered unacceptable.

2.8.9 Noise and Vibration

The desired outcome of Part 1C.2.5 Noise and Vibration of the HDCP is "*development designed and managed to minimise noise and vibration impacts on the occupants of residential dwellings and other noise sensitive land uses*". Part 1C.2.5 Noise and Vibration of the HDCP contains planning controls to limit the impact of noise and vibration on adjoining receivers, especially when those adjoining receivers are sensitive in nature, such as dwelling houses.

A Noise Impact Assessment (dated 24 February 2023), and acoustic addendum letter (dated 8 May 2023) were prepared by Acoustic Logic in support of the development application. A construction Noise and Vibration Management Plan was also prepared by Acoustic Logic (dated 15 February 2023).

The major acoustic concern generated by this development is offensive noise. Offensive noise is defined in the *Protection of the Environment Operations Act 1997* as noise—

- (a) *that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances—*

- (i) *is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or*
- (ii) *interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or*
- (b) *that is of a level, nature, character, or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.*

While an assessment of the use of a PA system was provided, with recommendations for noise limits and control measures, there is no other information provided by the applicant to address the use of any PA system or amplified music.

An offensive noise assessment has been provided by using the standard questionnaire provided within the Noise Guide for Local Government. The conclusion determined by Acoustic Logic is as follows:

Considering the above, we note that the level of noise would not be considered to be 'high', and the character of noise not deemed 'offensive'. As such, in our opinion the use of the sports courts would not be considered as 'offensive noise' as defined by the POEOA or under the guidance of the NGLG.

It is noted that in the questionnaire, Acoustic Logic states that "*loudness of noise is related to the background noise levels of the site, which typically vary throughout the day and noise levels generated by the sports courts would be governed by the intensity of use*". Given the intensity of use is not known, due to a lack of information provided by the applicant about the number of potential users at any time, this raises doubt about the Acoustic Logic assessment.

In the acoustic report dated 24 February 2023, Acoustic Logic provide acoustic data for the noise emission assessment based on "*data held by this office for venues of similar size and activities*". However, no further information is provided to enable an examination of the data, such as noise logging, location and zoning, type of venue, size of the venue etc.

The predicted noise levels in the report shows that at the southern receiver (R5) location, 637 Old Northern Road, noise emissions would be at the threshold of the project criteria of 47dBA, while the northern receiver is 45dBA. This would therefore suggest that the residents will experience an audible noise impact. The residual noise impact falls within the category of ≥ 3 but ≤ 5 dB(A), which is rated moderate according to the Noise Policy for Industry Table 4.1. Table 4.2 presents examples of potential receiver-based treatments to mitigate residual noise impacts and includes upgraded façade elements to reduce noise levels. It is noted that Acoustic Logic do not recommend any treatment to the southern and northern receivers.

The final statement of the Acoustic Logics assessment is that noise would not be considered offensive. However, this statement falsely represents the noise emission impact on the surrounding residential receivers from the introduction of a noise source from a commercial operation that is atypical in a rural residential location, proposed to occur 16 hours per day, 7 days per week, with insufficient detail regarding the intensity of use.

Council's assessment of acoustic impacts has determined compliance with the project noise trigger level during the evening period and for the sleep disturbance criteria in the night period, which is relevant for the proposed commencement time of 6am. It is further noted that while compliance may be achieved with these criteria, the predicted maximum noise levels at both the northern and southern receivers are either at the threshold of the criteria or slightly below.

Offensive noise remains a concern from the use of the carpark given:

- Noise from the carpark will likely be considered offensive by neighbouring residential land users that currently have a vacant block of “grassland” as described by Acoustic Logic.
- The potential number of “noise events” that a receiver is likely to experience, which can be at any time of the day and is of relevance from 6am to 7am.

A number of public submissions received by Council raise concerns about noise from the use of the site until 10pm and noise from vehicles accessing and parking at the site. These concerns are supported by Council's Environmental Protection assessment.

It is concluded that neighbouring residential land users are likely to experience offensive noise from the operation of the proposed recreational facility and associated carpark usage. A suitable alternative to the proposed outdoor fields is for the fields to be indoors. With respect to the carpark, additional attenuation measures should be explored or an alternative to an open carpark.

The proposal is inconsistent with Part 1C.2.5 Noise and Vibration of the HDCP.

2.8.10 Crime Prevention

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

A CPTED assessment was not submitted with the development application, therefore no details on how territorial reinforcement or access control would operate on the site, given the large number of visitors expected on the site, between 6am and 10pm daily. While the acoustic screening and boundary fencing would form some territorial reinforcement, it is uncertain whether members of the public would be able to access the landscaped area between the acoustic screens and the boundary, and what surveillance and/ or security of this area is proposed, if any. While fencing details were submitted by the Applicant, these details are minimal and do not adequately assist the assessment of territorial reinforcement or access control.

Public submissions were received concerned with anti-social behaviour at night-time, as well unauthorised access on to adjoining properties by patrons.

The Applicant has stated that there would be no service of alcohol on the premise without the permission of the facilities manager. However, this does not provide guidance on when the centre manager may allow alcohol onto the premise. If the development application was to be approved, a condition of consent would restrict liquor from the premise until such time as a liquor licence was approved by Liquor and Gaming NSW in consultation with NSW Police.

There is no detail of the 366m² players' lounge, including any detail of the fit out. Therefore, it is unclear what activities would be undertaken in the players' lounge. Should the application be recommended for approval, a condition would require that the players' lounge not be occupied until such time as a separate development application be approved for its use and fit-out.

Some anti-social behaviour can be mitigated through the Plan of Management. However, with only four to seven facility staff and two café staff on site at any one time, it is unclear how the behaviour of approximately 90 or more patrons would be managed. It is also noted that the traffic addendum dated

31 May 2023 states only three staff (including café staff) would be in attendance at the site during adult games.

The development application was referred to NSW Police, however no formal response was provided at the time of completing Council's assessment report.

The proposal is inconsistent with the desired outcomes of Part 1C.2.7 Crime Prevention.

2.8.11 Landscaping

The desired outcomes of Part 1C.2.9 Landscaping is "*Landscaping that integrates the built form with the locality and enhances the tree canopy*" and "*Landscaping that improves the environmental performance of the development*".

The desired outcome of Part 2.1.3 Landscaping of the HDCP encourages "*landscaping that integrates the built form with the locality and enhances the tree canopy*" and "*landscaping that is consistent with the visual landscape in the rural area*".

Prescribed controls under 1C.2.9 include incorporating landscaping in the site planning of a development to soften the visual impact of building, carparks and roads, to improve the aesthetic quality of the development and to screen undesired elements.

These desired outcomes Part 2.1.3 Landscaping of the HDCP are supported by prescriptive measures which state that "*fences should be open style and constructed of materials such as timber or post and wire, with a maximum height of 1.8 metres*" and "*high, solid fences constructed as sound barriers should be avoided*". A prescriptive control of Part 2.1.3 also requires a minimum of 45% of the site to be landscaped. Approximately 43% of the site would be landscaped (9506m²) which is a minor non-compliance.

The applicant proposes 3 metre high acoustic screens adjacent to the common boundaries. Some of these acoustic screens would be raised and affixed to raised playing fields.

The acoustic screens would be setback 10 metres from the side boundaries, and 15 metres from the rear setback. The screens are proposed in combination with extensive screen planning, and so would have negligible impact on the landscape chapter of the site.

The Applicant has provided landscape plans by Taylor Brammer (dated 15 March 2023) detailing the extent of landscaping works on the subject site.

A total of 36 trees would be removed from the site to facilitate the development, with most of those trees being located around the boundaries of the subject site. The loss of trees would be offset with the planting of 195 trees, 916 shrubs and 3644 groundcovers however most landscape species proposed are not endemic to the Blue Gum High Forest. The replacement planting would similarly be placed primarily around the peripheries of the site and include feature trees within the property boundaries.

No details have been provided regarding the implications of street tree planting on Old Northern Road as a result of the proposed private sewerage main in Old Northern Road.

An amended landscape plan would be required to satisfy Part 1C.2.9 Landscaping of HDCP.

2.8.12 Light Spill Plan

The desired outcomes of Part 1C.2.10 Services and Lighting of HDCP are "*development that provides necessary services to cater for future occupants*" and "*Development that integrates required services in building and site design to minimise impacts on the streetscape*".

These desired outcomes are supported by the prescriptive control that “*external and security lighting should be positioned to avoid light spillage, particularly to adjacent sensitive areas*” in accordance with AS4282 Control of the obtrusive effects of outdoor lighting.

A Light Spill Plan prepared by Tricom Engineering (dated 18/03/2023) has been provided in accordance with AS4282:2019 Outdoor lighting obtrusive effects, AS2560.1-2002 Sports lighting general principles and AS1158.3.1-2020 Lighting for roads and public spaces. The light spill plan shows only a small amount of light spill onto the property to the north. The light spill would not impact the windows of the dwelling house on the northern adjoining lot. However, all other light spill would be contained on the site.

The proposal generally complies with the desired outcomes of Part 1C.2.10 Services and Lighting of HDCP and is considered acceptable in this regard.

2.8.13 Signage

The desired outcomes of Part 1C.2.11 Signage are: “*signage compatible with the character of the locality*”, “*signage that complements the scale, sizes and architecture of the building or structure on which it is displayed*”, and “*signage that does not compromise pedestrian, cyclist or motorist safety*”.

A Signage site plan was submitted with the development application, which identifies a large non-illuminated sign with the text “Footballco” or similar at the front of the site south of the access driveway. However, the dimensions and design of the sign are unknown.

Insufficient details have been submitted to adequately assess the proposal against desired outcomes of Part 1C.2.11 Signage. Should the development application be recommended for approval a condition would be recommended requiring a separate development application for signage.

2.8.14 Bushfire

The desired outcomes of Part 1C.3.1 Bushfire of HDCP are: “*development that is located and designed to minimise the risk to life and property from bushfires*” and “*development that balances the conservation of native vegetation and bushfire protection*”.

A small portion of southwestern corner of the site is bushfire prone (vegetation buffer). The development is not a special bushfire protection purpose under Section 100B of the *Rural Fires Act 1997* and integrated development is not required.

A bushfire statement was prepared by Eco Logical Australia submitted with the development application identified that the nearest bushfire hazard is greater than 100m from the site. However, the bushfire statement makes recommendations including maintaining the site as an Inner Protection Area and by providing two-way property access. The Applicant has not demonstrated that the landscaped areas around the periphery of the site can comply with an Inner Protection Area (IPA). However, given the recommendation for refusal further information has not been requested.

Part 8.3.8 of Planning for Bushfire Protection 2019 provides guidance for outdoor events such as sporting events. If the application were recommended for approval, additional information would be required regarding crowd control and operational access. A Bush Fire Emergency Management Evacuation Plan potentially would have been requested as a condition of consent.

2.8.15 Flooding

Desired Outcome of Part 1C.3.2 Flooding is “*development that is located and designed to minimise the risk to life, property and the environment from flooding*”. This desired outcome is supported by the

prescriptive control that “Where a development proposal is on land shown as ‘Flood Planning areas’ on the HLEP Flood Planning Map or is on other land at or below the flood planning level, a comprehensive flood study should be prepared by a qualified hydraulic engineer and is to be submitted with any development application”.

Council’s current flood information indicates that a portion of the development site is affected by overland flow path during the 1% AEP flood along the natural depression from 641 Old Northern Road. Amended plans have been submitted removing structures previously proposed over the overland flow path.

Council’s Development Engineer assessed the amended Flood Impact report Revision B dated 19 May 2023 by JCO Consultants. The Flood Impact Report satisfactory addresses the Development Engineer’s concerns subject to recommended conditions if consent is granted.

The proposal complies with the desired outcomes of Part 1C.3.2 Flooding is considered acceptable in this regard.

2.8.16 Scale

The desired outcome of Part 2.1 Rural Buildings is “development with a height, bulk and scale that is compatible with the rural area”.

The prescriptive measures outline that for rural zones, the scale and site coverage controls outlined in Part 2.1 of the HDCP are applicable.

Part 2.1 of the HDCP prescribes that the scale of buildings is restricted by the maximum building height for the land as prescribed within the HLEP. The maximum permissible height for the subject site is 10.5 metres. The proposal has a maximum height of 10.48 metres and complies with this provision.

The proposed development would have a site coverage of 24% and a further 27% of the site would be impervious surfaces such as the car park, artificial turf playing fields and timber boardwalks.

However, given that no on-site wastewater system can be accommodated on the site, this is an indication that the site coverage is excessive. To facilitate on site wastewater, a large open area is usually required as a land application area. The original wastewater report submitted with this development identified a potential land application area (irrigation zone) of 7140m². This would be 32% of the 2.2 hectare site. It was recommended that the applicant reduce the site coverage of the development to accommodate an on-site wastewater system.

However, there is concern regarding the intensity of use of the site, given the likely number of patrons and staff at any one time as discussed previously in this assessment report.

2.8.17 Setbacks

The desired outcomes of Part 2.1.2 Setbacks of the HDCP are to encourage “setbacks that complement the rural character and allow for separation between neighbouring rural developments” and “setbacks that retain natural features”.

Part 2.1.2 of the HDCP requires a 30 metre setback to a front boundary, 10 metre side boundary setbacks and a 15 metre rear setback. As a road widening proposal exists on the site, the setbacks must be taken from the road widening line, and any deceleration lane within the site.

When the development application was initially lodged the car parking area and electric vehicle charging stations were within these setbacks. Most of the side boundary setback encroachment

consisted of circulation paths and car parking spaces. Revised architectural plans provided show the front setback taken from the road widening line. No proposed car parking or circulation paths are now located within the front setback area.

The location of acoustic screens has been amended to be setback 10 metres from the side boundaries and 15 metres from the rear boundary of the site. The proposal is now considered to be compliant with all prescriptive setback controls.

The proposal desired outcomes of Part 2.1.2 Setbacks of the HDCP and is considered acceptable.

2.8.18 Bus Stop

An existing bus stop (stand-alone pole) in front of 629 Old Northern Road would be required to be removed and relocated to facilitate the proposed deceleration lane.

CDC bus (Hills Bus) which service the bus stop have raised concerns regarding the proposed removal of the bus stop as a result of this development application and have recommended that:

- *An additional bus stop/bus bay with an approved all weather bus shelter on the southbound carriageway on Old Northern Road fronting the development be provided; or*
- *Upgrading and utilising the existing Bus Stop ID 215823 fronting Lorien Novalis School on the southbound carriageway on Old Northern Road. Footpath would be constructed the full frontage of the development and connected to the bus stop. A pedestrian refuge, pedestrian activated signals or similar for the safe crossing of Old Northern Road by bus patrons and pedestrians. Provide adequate lighting around the bus stop and pedestrian refuge would need to be provided; or*
- *Relocate the existing Bus Stop fronting Lorien Novalis School on the southbound carriageway on Old Northern Road between both Lorien Novalis School and the development. The bus stop may need to be upgraded to a bus bay to allow traffic on Old Northern Road to manoeuvre around buses dropping and picking up passengers. Footpath should be constructed the full frontage of the development and connected to the bus stop.*

The Applicant has declined to provide any relocation or upgrade to the affected bus stop on the basis that patrons would not be travelling to the facility on a public bus. If patrons attend the site on a coach (such as school group), a coach would enter the site to drop off/pick up passengers. The Applicant has demonstrated that coaches can manoeuvre into the site. However, no coach parking is identified on site.

This bus stop currently services members of the public providing routes between Glenorie to Castle Hill, Berowra Waters to Pennant Hills, and Marayla to Castle Hill. Therefore, the removal or disruption of this bus stop to facilitate the construction of the deceleration lane would not be in the public interest.

While the works required to relocate the bus stop would be minor, as no physical bus shelter or platform currently exists, further consultation should take place between the applicant and the CDC Hills Bus and a suitable alternative location for the bus stop be agreed upon by all relevant parties before the development application is supported.

On this basis, the proposal in its current form is not within the public interest, and therefore refusal is warranted.

2.8.19 Food Premise Fit out and Use

The proposal includes a café/ canteen intended for the use of patrons and spectators. This café/canteen would be a commercial kitchen, requiring commercial kitchen fit out. However, no details have been provided of the proposed café/ canteen.

Details of commercial kitchen fit out required under AS4674-2004 Design, construction and fit-out of food premises have not been provided.

Similarly, there are no details on the fit out of the proposed gymnasium and therefore no assessment can be undertaken regarding compliance with the National Construction Code/ Building Code of Australia.

This information is required to enable Council to assess car parking, traffic, wastewater and acoustic impacts based on a maximum capacity usage of the site.

Lack of sufficient technical information has been included as a reason for refusal of this development application.

2.8.20 Plan of Management

The intent of a plan of management is to demonstrate a strong commitment to good management of the operation of a business, particularly in relation to managing potential impacts on adjoining and surrounding land uses and premises, as well as the public domain.

As part of Pre-Lodgement Meeting PL/59/2019, a Plan of Management (PoM) was requested to provide details on the proposed hours of operation, noise mitigation measures, complaints management, light management, security, staff numbers, and emergency procedures.

An Operational Plan of Management was prepared by Planning Ingenuity (dated 17 March 2023) in support of this development application.

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

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

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

- *Is there a procedure for updating and changing the Management Plan, including the advertising of any changes?*

The Plan of Management does not provide a detailed response to the questions raised in the planning principle, other than to say the Plan of Management is consistent with the relevant part of the principle.

The plan of management requires any cleaning or maintenance to occur during operational hours. While the lodgement documents identify only 6 -9 staff on the site at any one-time POM identifies that professional companies would be undertaking cleaning and maintenance work during operational hours. A private contractor would also be responsible for waste and recycling collection services. It is unknown how many people would be on site to carry out these duties and the resultant car parking and traffic demand.

Most of these 6-9 staff are likely to be involved in refereeing games and therefore not available to address anti-social behaviour occurring on site. Of these 6-9 staff, 2 staff would be operating the café, and others would likely be involved in office and reception duties (particularly during business hours). Therefore, is uncertain that adequate staff would be on site to enforce the POM. It is also noted that the traffic addendum dated 31 May 2023 states only three staff (including café staff) would be in attendance at the site during adult games. However, it is considered that this is most likely an error.

Without an accurate projected number of staff on site, it is uncertain as to anti-social behaviour would be managed. It is also impossible to assess the intensity of the proposed development and potential impact in the locality, such as noise, traffic and carparking without accurate occupant (including staff) numbers.

PoM identifies that the facility's wastewater system treatment system would be in accordance with the manufacturers specification. However, no wastewater system is proposed.

The PoM assumes that alcohol would not be brought onto the site except with the approval of the manager. It is not clear under what parameters the manager would permit liquor on the site. However, if approved, the facility would have the opportunity to apply for a liquor licence.

In the absence of details including fit out of the players' lounge, and insufficient details in PoM regarding the management of liquor and potential resultant anti-social behaviour, Council cannot be satisfied that the service of liquor would be appropriately managed on site. The PoM relies on patrons to leave the site immediately at the end of last game of the night. However, there is no detail on how staff would ensure that this would occur. It is also unclear whether functions would be held in the players' lounge, and how those functions would be managed.

The amended Statement of Environmental Effects dated identifies that the capacity of the sports facility would be determined based on the maximum capacity of the carpark and the intensity of the site would not exceed that level (100 car parking spaces). However, it is unclear how that would be enforced.

The applicant states that the facility *aimed at the sport's elite athletes who highly disciplined and will generally obey the facility's management plan regarding parking, noise and other behavioural issues.*

This statement relies on the assumed behaviour of patrons. It also does not account to social/ casual players whom would not be as familiar with the rules of the facility. It does not provide flexibility should the facility be operated by another operator with a different business model in the future.

A complaints procedure is included in the POM. The POM provides for an annual review of the POM.

The Plan of Management is considered insufficient as it fails correctly identify the number of staff required to ensure the implementation of the plan of management.

The inadequate Plan of Management been included as a reason for refusal, as it cannot be demonstrated that the proposal is within the public interest.

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 Flora and Fauna Impact

The proposal will result in adverse impacts to the natural environment. The proposal will require the removal of hollow-bearing trees that provide potential fauna habitat for threatened fauna. These trees form part of Sydney Turpentine Ironbark Forest in the Sydney Basin Bioregion, which is listed as a Critically Endangered Ecological Community under the BC Act and EPBC Act and was mapped along the northern boundary of the study area. Of the eight hollow-bearing trees recorded within the study area, three will be removed, which includes potential roosting/breeding habitat for threatened microbat species.

3.1.2 Tree and Vegetation Preservation

The proposal involves the removal of a total of 35 established trees to facilitate the construction of the proposal. Trees to be removed are described within the supplied Arboricultural Impact Assessment prepared by Redgum Horticultural (dated 31 May 2023) in support of this development application.

The proposed development has now been amended to retain the hollow-bearing trees which is a favourable outcome from an ecological perspective. The current proposal will result in the removal of 35 trees numbered 8, 9, 10, 11, 12, 13, 14, 15, 16, 25, 26, 27, 34, 36, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 64, 65, 66, 67, 68, 69, 70, 71 and 72. Whilst tree loss is not ideal, there is sufficient space on the site to provide compensatory plantings of locally occurring species to maintain the local amenity and replace lost canopy.

3.1.3 Stormwater Management

It is proposed to discharge stormwater from the site to the natural drainage channel (watercourse) near the eastern boundary and as such will require an easement. Owner's consent from the downstream property owner to create an easement over Lot 12 has been provided. Civil engineering detail has been provided by JCO Consultants Pty Ltd (dated 17 May 2023) demonstrating how the stormwater system would connect to the watercourse on the adjoining property.

3.2 Built Environment

3.2.1 Built Form

The two-storey gymnasium and amenities building would be setback from the street and adjoining properties and would be well screened by landscape buffers and acoustic screens.

The design has attempted to minimise the visual impact relocating the building to the rear of the site, locating window and door openings towards the centre of the site, rather than towards boundaries and

ensuring all pedestrian paths of movement to and from the building are located away from side and rear boundaries. A landscape buffer around the side and rear boundaries would reduce the visual impact of the building when viewed from adjoining properties.

3.2.2 Traffic

Temporary construction access would be provided via a right-of-carriageway. Vehicular access for the facility once operational would be provided via Old Northern Road. As part of the proposal, Old Northern Road would be upgraded to include a deceleration lane.

The issues regarding infrastructure within Old Northern Road have now been addressed to the satisfaction of Transport for NSW and Council.

As the number of staff and patrons on site at any one time is unknown, the full traffic and car parking demand cannot be adequately assessed.

A number of public submissions raise concerns regarding lack of car parking for the development, and the increase in traffic generation/congestion on Old Northern Road and surround streets.

Council's assessment of the traffic impacts of the development cannot be accurately determined as the total number of patrons and staff is unknown and therefore the total number of vehicle trips and car parking demand cannot be assessed.

3.3 Social and Economic Impacts

The proposal would have positive social impacts by providing a facility for sport and fitness and would facilitate social gathering. However, negative social impacts would arise from the impact of noise on adjoining neighbours, as well as insufficiencies in the Plan of Management, relating to how anti-social behaviour would be dealt with.

The proposal would have a positive impact on the local economy with the potential to generate an increase in demand for local services. Economic and employment opportunities would be generated during the operation of the site, as well as providing secondary opportunities for business stimulation of the local Dural Village area.

4. SITE SUITABILITY

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

The Applicant has not adequately demonstrated that the site is suitable for accommodating the proposed development.

The subject site has been identified flood prone land and bushfire prone. The applicant has not demonstrated that the development can be served by appropriate infrastructure, particularly in relation to wastewater.

Due to the absence of appropriate sewerage disposal, the site is not considered to be capable of accommodating the proposed development. The intensity of the of the proposed development is unclear as the total number of occupants on site is unclear. Therefore, is it unclear whether the site can accommodate the proposed development. The intensity of the proposed development and potential impact in the locality cannot be accurately assessed and is therefore considered unacceptable.

4.1 Wastewater

An on-site wastewater system cannot be accommodated on the site due to the intensity of the development. If the development was to be scaled back, it is possible that an appropriate on-site wastewater system could be achieved.

The site is not serviced by a Sydney Water Sewer Main. Sydney Water have advised that connection to a Sydney Water Rising Main in Old Northern Road is not available for property connections. The Applicant has provided details of a private sewer main in Old Northern Road which would connect to Sydney Water's reticulated sewerage system. However, there have been insufficient details provided to date regarding the private sewer main. There is no certainty that this proposed sewer main connection would be approved by Sydney Water. In the absence of a suitable and certain sewerage solution for this site, the site is considered unsuitable for the proposed intensity of development.

4.2 Flooding

Part of the land the subject of the development is identified as being below the 1:100-year flood level. Council's current flood information indicates that a portion of the development site is affected by overland flow path during the 1% AEP flood along the natural depression from 641 Old Northern Road. In this regard, an overland flow assessment report has been provided by a qualified Chartered Civil Engineer.

A flood assessment has been provided in support of this development application. been demonstrated that the site can be developed, notwithstanding the overland flow path on the site.

4.3 Bushfire Risk

A small portion of southwestern corner of the site is bushfire prone (vegetation buffer). The development is not a special bushfire protection purpose under Section 100B of the *Rural Fires Act 1997* and integrated development is not required.

A bushfire statement was prepared by Eco Logical Australia submitted with the development application identified that the nearest bushfire hazard is greater than 100m from the site. If Council intended to approve the development application, it is likely that the Applicant would be able to demonstrate that the site is suitable for development in relation to bushfire risk, subject to the provision of additional information and conditions of consent. However, given the recommendation for refusal no additional information regarding the site's bushfire risk has been requested.

5. PUBLIC PARTICIPATION

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


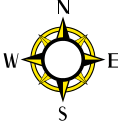
5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between July 2022 and 16 August 2022 in accordance with the Hornsby Community Engagement Plan. A total of 16 submissions, and three petitions containing a total of 11 names in objection and six submissions in support of the proposal were received in respect of the application.

Between 21 March 2023 and 13 April 2023 amended plans were placed on public notification. A total of 5 submissions, and a petition containing a total of 12 names in objection have been received in respect of the amended application.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED		PROPERTY SUBJECT OF DEVELOPMENT	
12 SUBMISSIONS RECEIVED OUT OF MAP RANGE				

Six submissions were received in support. 21 submissions and four petitions containing a total of 23 signatures objected to the development, generally on the grounds that the development would result in:

5.1.1 Traffic Generation

A number of public submissions raised concerns regarding the inability of the local road network to cope with the existing traffic generation particularly from the Lorient Novalis School, Maronite Church, and large residential developments in the vicinity. It was also noted that Lorient Novalis School regularly holds weekend fairs which may also contribute to traffic congestion. Concern was also raised regarding the potential traffic generation from the proposed development, and the potential for traffic to “bank-up” on Old Northern Road.

Objectors have requested the road be upgraded to two lanes to alleviate traffic congestion, as there is currently no right-hand turning bays.

One submission identified issues with the project used as a benchmark to assess traffic generation and suggested an alternative project “The Centre Dural” be used to assess likely traffic generation.

Concerns were raised in submissions that the 10-minute buffer between games is not sufficient to enable patrons to leave the site before more patrons arrive, leading to car parking and traffic congestion.

Comment: Traffic issues have been discussed in detail in Sections 2.5.2, 2.8.6 and 3.2.2 of this report. Some of the traffic issues raised are existing situations and not a result of this development. However, it is considered that the maximum occupant numbers are difficult to determine, and therefore the likely traffic generation is higher than that estimated under the Traffic Assessment and Addendum letter by Varga Traffic Planning Pty Ltd. Therefore, the full impact of traffic generation is unknown and cannot be assessed. It is considered that a 10-minute buffer between games is unrealistic given the facilities provided on site including the café, players’ lounge, and showers etc.

5.1.2 Car Parking

Concerns have been raised that there is inadequate provision of car parking for spectators and casual café patrons. Reliance should not be given to public transport to justify the car parking rate, as bus trips are inconsistent particularly on the weekend. Further, there is no on-street carparking to accommodate overflow car parking.

The potential result of inadequate on-site carparking is that patrons may attempt to park in the Lorien Novalis School car park or potentially illegally park on adjoining properties.

Comment: Insufficient details have been provided by the Applicant to demonstrate the total number of occupants on site at any one time. Therefore, an accurate assessment of car parking cannot be undertaken.

5.1.3 Pedestrian Safety

Concerns were raised regarding pedestrian safety on Old Northern Road. There is no safe way for a pedestrian to cross Old Northern Road from the western side (near Lorien Novalis School and bus stop). Further there are no footpaths or pedestrian crossings on the eastern side of Old Northern Road in the vicinity of the facility. Contributing to pedestrian safety concerns, street lighting is poor in the area.

There would need to be a break in the physical barrier on the eastern side of the road to allow pedestrians to move through.

Submissions requested that the Applicant move the north bound turn lane a few metres north and make a traffic island between the south turn lane for the school and proposed north turn lane and provide a footpath between the physical barrier and the entrance of the proposed facility.

Comment: Council’s Traffic and Road Safety Branch raised concerns regarding pedestrian safety within the road reserve of Old Northern Road.

5.1.4 Use of Right of Carriageway

The block has a very narrow lane way driveway. It is unsuitable for three other residential houses to share with a sports stadium. There have already been almost crashes in the tiny lane way.

Comment: The Right of Carriageway would be used during the early stages of construction. However, it is not proposed to the use of the right of carriageway in the operation of the facility. A Preliminary Construction Traffic and Management Plan (dated 15 March 2023) was submitted with this development application. It is expected that it would take approximately 4 weeks to construct the deceleration lane and new entry/exit driveway access along the Old Northern Road frontage. After which time, it is expected that construction vehicles would access the site via Old Northern Road. All demolition and construction vehicles would be required to be loaded/ unloaded wholly within the site. If approved, during the operation the facility, the right of carriageway would not be able to be physically closed off without the approval of all beneficences of the Right of Carriageway. However, signage would have been able to be erected advising visitors not to use the Right of Carriageway.

5.1.5 Infrastructure

One objection contends that infrastructure requirements will be beyond the scope of the proposal.

Comment: Council's assessment agrees with this contention as the applicant has not adequately demonstrated that the site will be serviced by suitable effluent disposal. Issues regarding stormwater have now been resolved.

5.1.6 Hours of Operation

Concerns were raised that the proposed hours of operation are inconsistent with rural character, particularly the operation and resultant noise of a gym in the early morning. The hours of operation are considered inconvenient to surrounding residents. The Acoustic report does not justify the extended hours of operation.

Comment: Council considers the hours of operation being 6am-10pm Monday to Sunday to be excessive in the rural zone. If approved, Council would seek to limit the hours of operation through a condition of consent. There are several outstanding issues in relation to the acoustic assessment, particularly in relation to the 6am start time, 7 days a week. Offensive noise impacts to adjoining properties has been included as a reason for refusal.

5.1.7 Precedent

Concerns were raised that development sets a precedent for future commercial development along Old Northern Road.

Comment: Council's Rural Lands Strategy recognises that within the Georges Creek Preferred Landscape Area Character Statement there is a wide variety of land uses, including urban services (garden centre, auto repairs), retirement living, and rural lifestyle properties clustered along Old Northern Road. This proposal is considered consistent with Georges Creek Preferred Landscape Area Character Statement which acknowledges the mix of residential, rural and commercial land uses along Old Northern Road.

5.1.8 Rural Zoning and Character

Concerns were raised that the proposal does not meet the objectives of the RU2 Rural Landscape zone. It was asserted in public submissions that sites zoned as rural land should be used for rural purposes.

The proposed project will also change current peaceful living environment in the area given all land is currently zoned for semi-rural residential properties. The development is out of place with the

RU2 Rural landscape zoning. The cumulative impact of other large developments is eroding the rural character.

The character of the area is acreage residential properties. The proposed development is inconsistent with the current and future character of the area.

Comment: Recreation facilities (indoor) and recreation facilities (outdoor) are permissible in the RU2 Rural landscape zone with development consent. It is agreed that the proposal does not comply with objectives of the R2 zone as the development does not have access to the appropriate infrastructure to service the development.

5.1.9 Building Design

Concerns are raised regarding the appearance of the proposed building; The objector contends that the proposed grey building with tiny windows looks like an institutional building.

One objection asserts that the new design puts a public toilet block right along the adjoining property's driveway. This is undesirable and unsafe. The objector requests that the toilets be placed in the middle of the site, so they do not affect the adjoining properties.

Comment: The building has been relocated to the rear of the site. The building would not be highly visible from the street and would be separated from adjoining properties by a 10 metre landscape buffer and 3 metre high acoustic barriers on the side boundaries. Bangalay Gums and Swamp mahoganies with a mature height of 25 metres and 18 metres respectively would be planted along the southern elevation of the building. The toilets are internal to the building and not accessed by an external opening in the building. There are no windows directly facing adjoining properties on the southern boundary. Windows and doors on the northern elevation of the building would be at a sufficient distance (90 metres) from the dwelling houses on the northern side of the site to maintain privacy.

5.1.10 Noise

Concerns are raised regarding the noise impact of waste collection, the operation of the café, loudspeakers, whistles and sirens, people leaving the site and noise from gym instructors and music at the gym. It is requested that there be restrictions on the amplified sound from the rooftop training area.

One objection requested advice on what recourse would be available should the proposed noise barriers be ineffective. One objection raises concerns regarding the acoustic impact of the development on livestock and domestic animals.

Comment: Council's assessment of the acoustic report concludes that the acoustic impact is unacceptable, and refusal is recommended on this basis.

5.1.11 Security and Safety

There is no mention in the plan for security fencing. At least two metres, sound proof fencing to stop children, builders should be installed to stop people from wandering onto adjoining properties.

Comment: A fencing elevation has been provided however no measurements or details of the materials have been provided. A Crime Prevention assessment has not been undertaken by the applicant and Council is unable to assess this aspect of the development. The development has not addressed crime prevention and the application is not supported.

5.1.12 Anti-social behaviour at night

One objection raised concerns regarding the operation until 10pm at night and resultant potential anti-social behaviour by site users.

Comment: As discussed in Section 2.8.19 of this report, the Plan of Management does not provide certainty that anti-social behaviour would be appropriately managed.

5.1.13 Light Pollution

Concerns were raised that no details of the proposed lighting for the soccer pitches have been submitted, and that no light spill assessment has been undertaken. Concerns were also raised regarding the impact of light spill on livestock and domestic animals.

Comment: Light spill plans were provided and demonstrated that there would be no light spill onto adjoining properties.

5.1.14 Sun Light Access

Concern was raised regarding potential overshadowing of adjoining properties from the proposed building. Particularly, that 8-15 metre high trees on southern boundary would affect sunlight access to the dwelling and private open space of the adjoining property to the south.

Comment: Amended shadow diagrams were submitted on 13 March 2023. The amended shadow diagrams depicted shadowing from the acoustic screens, however, did not including landscaping. Therefore, sunlight loss to adjoining properties because of landscaping cannot be assessed.

5.1.15 Impact on Lorient Novalis School

Concerns have been raised regarding the impact of the proposal on Lorient Novalis School which is on the opposite side of Old Northern Road to the subject site. Concerns are raised regarding potential impacts on the entry/ exit from Lorient Novalis School

It is asserted that existing turning lanes/ bays servicing the school must be maintained and that the school's electronically operated security gate is not to be obscured.

Comment: Amended civil engineering plans have been submitted demonstrating that a bus can right turn into and out of Lorient Novalis School and left turn out of Lorient Novalis School.

5.1.16 Site Coverage

Concerns are raised regarding the excessive impervious site coverage and the resultant impact of site coverage on rural character.

Comment: Part 2 of HDCP does not specify a maximum site coverage control for lots over rural 4000m² and relies on a merit assessment. Council does raise some concerns with the intensity of the development on the site, should the development also be required to provide on-site wastewater system. The site coverage is inconsistent the rural residential properties within the immediate vicinity of the site.

5.1.17 Procedural

One objector requested that Council extend the submission period by 3 months.

Comment: Public notification was undertaken in accordance with the Community Engagement Plan. There was no requirement under this plan to extend the notification period. However, amended plans

were received and the development application was placed on re-notification between 21 March 2023 and 13 April 2023.

5.1.18 Use of Synthetic Turf

Concerns were raised regarding the environmental impacts of the use of synthetic turf, including the potential environmental impact of rubber and plastics entering waterways, impacts on global warming that that synthetic turf is unsustainable and non-recyclable, as well as being costly to maintain. Health concerns were also raised regarding potential carcinogens in synthetic turf and potential for injuries from falls on synthetic turn. It was also claimed that synthetic turf presents a significant fire hazard.

Comment: The objector did not provide any evidence to support claims of the impact of synthetic turf on health, the environment or as a fire hazard.

5.1.19 Café

Questions were raised in submissions whether the café is to be only available to site users, or whether it would operate as a separate commercial business. Questions were also raised whether there is potential for the operator to apply for a liquor licence.

Comment: While the applicant has indicated that the café is intended to operate like a canteen for the patrons of the site, insufficient information has been provided to assess the appropriateness and impact of the café. The POM identifies that no alcohol would be brought on the site except with the permission of the facility manager.

5.1.20 Unorderly Pattern of Development

One objection asserts that the part of Dural containing the subject site, has a chaotic development pattern.

Comment: The Rural Lands Strategy identifies a mix of commercial, residential, and rural development along Old Northern Road. The proposal is considered consistent with the Rural Lands Strategy.

5.1.21 Existing Sporting Facilities in the Area

Dural already has two other sporting facilities that could be expanded. 45 Quarry Rd, Dural already has external fields and we also have Dural Squash Courts and Dural Tennis centres all sites that could be further developed.

Comment: Commercial competition is not a matter for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

5.1.22 Insufficient facilities for spectators

Concerns were raised that there are insufficient facilities, such as seating, toilet facilities and car parking for spectators.

Comment: It is considered that the total patron numbers on the site have been under-estimated and therefore adequate toilet facilities and car parking may not have been provided.

5.1.23 Environmental Impact

The site is mapped as being in a Blue Gum High Forest which is listed as having threatened biodiversity. There is wildlife such as birds and rabbits and ducks that live in the area and move between the

properties. Building the proposed concrete large complex that takes up almost 5 acres will impact the environment the animals currently live in. The current dwelling structures do not cover significant portions of the properties resulting in low FSR and have significant portion of landscaped and natural bush areas. However, the proposed development is not consistent and will reduce landscaping for the animals and area.

Comment: A Flora and Fauna Assessment was prepared by Eco Logical Australia Pty Ltd (dated 11 July 2022). No threatened flora and fauna species were identified on the site. Suitable foraging habitat for threatened fauna species was limited within the study area due to the relatively small amount of native vegetation present and lack of habitat features. The removal of this habitat for the proposed development is considered negligible on a local scale and would not result in a long-term decline in the population of threatened fauna species.

A total of 35 trees would be removed from the site to facilitate the development, with the majority of those trees being located around the boundaries of the subject site. The loss of trees would be offset with the planting of 195 trees. However, it is acknowledged that the landscape plan does not consist of a majority of species representative of the Blue Gum High Forest vegetation.

5.1.24 Supporting Documents

One objector contends that the site Location Plan (DA2.01) doesn't show the correct lot boundary or more so the location plan does not align with the architectural plans which show a different extent of works.

Comment: A site location plan is indicative only. All other plans are consistent with the Survey Plan prepared by Project Surveyors (dated 5 February 2021).

5.1.25 Lack of Sporting Facilities in the Vicinity

The submission in support are in favour of the development due to the lack of similar sporting facilities in the vicinity and the benefit of the facility to schools, sporting groups and the public. The facility would provide all weather playing fields. The facility could be used for training courses and rehabilitation programs.

Comment: Noted and agreed

5.1.26 Community Benefit

The proposed sports facility will further the local community's capacity to engage with other local programs to promote healthy living and active recreation, support for a community that is older and provide a safe place for social connection.

Comment: Noted and agreed

5.1.27 Car Parking

One submission in support contends there would be adequate off-street car parking for the development.

Comment: It is unclear whether there would be adequate off-street car parking, as the total patron and staff numbers are unclear.

5.2 Public Agencies

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

5.2.1 Transport for NSW

The subject property is affected by a Road Widening Order under Section 25 of the *Roads Act 1993*. The integrity of the existing Old Northern Road corridor including the road widening order shall be maintained to enable the future widening/ upgrade of Old Northern in the medium to long term (subject to allocation of funding, which is limited and allocated on a statewide priority basis).

Amended plans and an amended traffic report were referred to Transport for NSW who provided correspondence dated 24 April 2023 that they had no objections to the proposal subject to compliance with conditions.

5.2.2 Endeavour Energy

This Development Application was referred to Endeavour Energy. No objections were raised by Endeavour Energy to the proposed development.

5.2.3 NSW Department of Planning and Environment - Water

The site is within 40 metres of a natural watercourse. Under the *Water Management Act 2000*, an integrated Development Application was required. A request for referral was sent to NSW Department of Planning and Environment – Water (DPE – Water). On 18 January 2023, DPE - Water issued their General Terms of Approval, subject to a requirement to be notified if amended plans were received. Amended plans were submitted on 17 May 2023 which provided additional information on the works to the watercourse adjoining the site. However, given the recommendation for refusal, these plans were not re-referred to DPE - Water.

5.2.4 NSW Fisheries

In August 2022, the Department of Primary Industries (Fisheries), confirmed the proposal does not trigger Section 201 of the *Fisheries Management Act 1994* as it doesn't include dredging or reclamation of key fish habitat and therefore a formal referral comment was not required.

5.2.5 CDC Hillsbus

CDC Hillsbus (CDC) have been consulted in relation the proposed removal of a bus stop outside 629 Old Northern Road.

CDC advised that the proposed bus relocation outside 629 Old Northern Rd Dural will require consultation with CDC before any bus stop relocation is conducted. This bus stop is utilised by students and the public on a regular basis.

CDC advised that they require prior consultation, and if the bus stop to be relocated outside another property, the person or company requesting relocation of the bus stop would need to consult with the affected resident or landowner. The location would have to be agreed by CDC and be safe for CDC buses and customers.

CDC requested no change to the current road traffic marking and configuration because the proposed configuration will cause conflict between buses entering and exiting the school located opposite to the development site.

CDC object to any change in road configuration near the school, because of the impact to safe operation of public transport and parents which pick up and drop of students at Lorien Novalis School.

The Applicant has not appeared to have entered into any discussions with CDC regarding the potential relocation of the bus stop. The Applicant has declined to provide Council with details of a relocated bus stop.

Therefore, the concerns raised by CDC remain unresolved. The proposal is therefore not in the public interest, as infrastructure used by the public would be removed by the development.

5.2.6 Sydney Water

This development application was referred to Sydney Water to ascertain whether the development could be connected to a Sydney Water Sewer Main in Old Northern Road.

Sydney Water advised in correspondence dated 18 May 2023 that connection to the pressure sewer main on the western side of Old Northern Road was not available. Sydney Water advised the proposal will need to have on-site wastewater management.

Feasibility of connection to gravity main in the vicinity of the development can be explored subject to a feasibility application. However, it is unknown how long a feasibility application would take, and Council is not in a position to delay the assessment of the development application until such time as this matter is resolved.

The Applicant has provided a detailed letter from their infrastructure consultant Rose Atkins Rimmer Infrastructure Pty Ltd (dated 15 June 2023), stating that the construction of a private sewer main in Old Northern Road and connection of the private sewer main to Sydney Water's reticulated sewerage system is feasible, and has been an accepted approach on other projects. However, no correspondence has been received from Sydney Water confirming that this is a satisfactory arrangement. It is acknowledged that Sydney Water is unable to grant Section 73 Approval for the connection to the sewer main prior to the issue of Construction Certificate, however a notice of requirements or similar from Sydney Water confirming in-principle support of this proposal is required prior to the issue of any development consent for the site.

Therefore, the directions provided by Sydney Water that the site be connected to on-site sewerage have not been fulfilled.

5.2.7 NSW Police

The development application was referred to NSW Police on 31 August 2022 to provide comments on any concerns they had regarding potential anti-social behaviour they had. However no formal response was received from NSW Police regarding this proposal. Given the recommendation for refusal NSW Police comments were not pursued.

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 not considered to have satisfactorily addressed Council's and relevant agencies' criteria and is likely to have an adverse impact to the community. Accordingly, it is considered that the approval of the proposed development would not be in the public interest.

CONCLUSION

The application proposes a recreation facility (outdoor) and recreation facility (indoor).

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

Council received a total of 24 submissions, and 3 petitions containing 11 signatures during the two public notification periods. The matters raised have been addressed in the body of the report.

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

The proposed development does not comply with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013.

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.

CASSANDRA WILLIAMS
Major Development Manager - Development
Assessments
Planning and Compliance Division

ROD PICKLES
Manager - Development Assessments
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Attachments:

1.  Locality Plan
2.  Architectural Plans
3.  Civil Engineering Plans
4.  Landscape Plan
5.  Plan of Management
6.  Acoustic Report
7.  Sydney Water Letter

File Reference: DA/737/2022
Document Number: D08682812

SCHEDULE 1

1. The proposed development is unsatisfactory with respect to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it does not comply with the following environmental planning instruments.
 - a) The proposal does not comply the objectives of the RU2 - Rural Landscape Zone of *Hornsby Local Environmental Plan 2013* as it cannot be demonstrated that the site does not unreasonably increase the demand of public infrastructure as the site is not adequately serviced by either an on-site wastewater system or a reticulated sewerage system.
 - b) The proposal does not comply with Section 2.122 Traffic Generating Development of *State Environmental Planning Policy (Transport and Infrastructure) 2021* as the projected traffic volume cannot be accurately determined.
2. The proposed development is unsatisfactory with respect to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as the proposal does not comply with the Hornsby Development Control Plan 2013 on the following grounds:
 - a) The proposal does not comply with Part 1C.1.1 Biodiversity of the Hornsby Development Control Plan as the proposed landscape plan is not representative of the Blue Gum High Forest vegetation communities.
 - b) The proposal does not comply with Part 1C.2.1 Transport and Parking as inconsistent information regarding occupant numbers raises concerns that the proposed on-site carparking and proposed traffic assessment is insufficient.
 - c) The proposal does not comply with Part 1C.2.4 Effluent Disposal as there is no suitable effluent system proposed on site.
 - d) The proposal does not comply Part 1C.2.5 Noise and Vibration of HDGP as the proposal would result in offensive noise impacts to adjoining properties.
 - e) The proposal does not comply Part 1C.2.7 Crime Prevention of the HDGP as application does adequately address how anti-social behaviour would be managed.
3. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the site is not considered suitable for the development as the Applicant has not demonstrated that the site is suitably serviced by appropriate wastewater infrastructure.
4. Pursuant to Section 4.15(1)(b) the *Environmental Planning and Assessment Act 1979*, insufficient technical information to enable a proper assessment for the impact on built and natural environment of the application in respect to the following matters.
 - a) No details of the commercial kitchen fit-out or seating area of the canteen/café have been submitted.
 - b) No Crime Prevention Assessment (CPTED) Report as has been provided in support of this development.
 - c) The Plan of Management is insufficient and does not provide a comprehensive breakdown of patron numbers detailing all facets of the development.
 - d) No suitable alternative location has been provided for the public bus stop.
 - e) A Wastewater Report has been submitted to support an on-site wastewater system.

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- f) Landscape plan does not contain species representative of the Blue Gum High Forest.
5. Pursuant to Section 4.15(1) (e) (of the *Environmental Planning and Assessment Act 1979*, approval of the development would not be in the public interest. In that the applicant has failed to demonstrate that the application would not have an adverse impact on the natural and built environment, and has failed to sufficiently address the public submissions received in response to the proposal.

- END OF REASONS FOR REFUSAL -

ITEM 1