



# **SUPPLEMENTARY BUSINESS PAPER**

**Local Planning Panel meeting**

**Wednesday 29 April 2026**

**at 4:00 PM**



## TABLE OF CONTENTS

### SUPPLEMENTARY ITEMS

Item 2	LPP9/26 DA/1/2026 - Construction of a COLA & Covered Walkway - 449C Pennant Hills Road, Pennant Hills.....	1
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**2 DA/1/2026 - CONSTRUCTION OF A COLA & COVERED WALKWAY - 449C PENNANT HILLS ROAD, PENNANT HILLS**

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<b>DA No:</b>	DA/1/2026 (PAN-601964 - Lodged on 14 January 2026)
<b>Description:</b>	Construction of a covered outdoor learning area (COLA) and covered walkway
<b>Property:</b>	Lot 11 DP 1209584, No. 449C Pennant Hills Road, Pennant Hills
<b>Applicant:</b>	Sophie Thomson
<b>Owner:</b>	Good Samaritan Education
<b>Estimated Value:</b>	\$2,378,560
<b>Ward:</b>	C Ward
<b>Clause 4.6 Request:</b>	Clause 4.3 Height of buildings in the HLEP R2 Low density residential zone
<b>Submissions:</b>	Nil
<b>LPP Criteria:</b>	Proposal contravenes a development standard by more than 10% (88%)
<b>Author:</b>	Katrina Maxwell, Senior Town Planner
<b>COI Declaration:</b>	No Council staff involved in the assessment of this application have declared a Conflict of Interest.

**RECOMMENDATION**

- A. THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, contravene Clause 4.3 Height of buildings development standard pursuant to Clause 4.6 of the Hornsby Local Environmental Plan 2013, as it is satisfied that the applicant has demonstrated that the provisions of Clause 4.6(3)(a) and (b) have been met.
- B. THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, approve Development Application No. DA/1/2026 for construction of a covered outdoor learning area (COLA) and covered walkway at Lot 11 DP 1209584, No. 449C Pennant Hills Road, Pennant Hills subject to the conditions of consent in Schedule 1 of LPP Report No. LPP9/26.

## EXECUTIVE SUMMARY

- The application involves the construction of a covered outdoor learning area (COLA) and covered walkway at an existing educational establishment.
- The proposal does not comply with Clause 4.3 'Height of buildings' of the Hornsby Local Environmental Plan 2013. The applicant has made a submission in accordance with Clause 4.6 'Exceptions to development standards' of the Hornsby Local Environmental Plan 2013 to contravene the height of buildings development standard. The submission is considered well founded and is supported.
- No public submissions have been received in respect of the application.
- The application is required to be determined by the Hornsby Council Local Planning Panel as the proposal would contravene the Hornsby Local Environmental Plan 2013 Height of buildings development standard by more than 10% (88%).
- It is recommended that the application be approved.

## BACKGROUND

Mount St Benedict College was established on the site in 1966. Numerous development applications have been approved over the years for the expansion of the school facilities. Some recent applications are detailed below:

- On 12 August 2002, DA/382/2002 was approved for the construction of a new technology building and administration building.
- On 3 October 2007, DA/382/2002/A was approved to modify an entry gate and increase student numbers from 870 to 920 students. A total of 90 staff members and 95 car spaces were approved under this consent.
- On 9 March 2012, Development Application No. DA/382/2002/B was approved to increase student places from 920 to 1050. Staff numbers were approved to increase from 90 to 115 members. Car parking was approved to increase from 95 to 115 spaces.
- On 28 April 2011 Council approved Development Application No. DA/231/2011 for demolition of an existing school building.
- On 17 May 2011, Development Application No DA/206/2011 was approved for the construction of a three-storey classroom building (Block D).
- On 14 March 2012, Development Application No DA/1416/2011 was approved for the alterations and additions to Building E located within the eastern portion of the site. Minor modifications under Section 96 (now Section 4.55) were approved for design alterations.
- On 4 April 2013, Development Application No DA/54/2013 was approved for the erection of a shade structure to the hockey fields.
- On 9 May 2016, Development Application No DA/1234/2015 was approved for the erection of a performing arts centre.
- On 10 October 2016, Development Application No DA/1234/2015/A was approved for minor design changes to the approved performing arts building.

- On 18 September 2017, Development Application No DA/383/2017 was approved by Council proposing the increase in student numbers from 1050 to 1232 students and use of a car parking at the adjoining convent site.
- On 10 August 2022, Council approved DA/383/2017/A for an increase in student and staff numbers, 37 new car parking spaces and remove 5-year consent validity period.
- On 1 November 2023, Council approved DA/383/2017/B for the retention of the existing shed and Reconfiguration of the approved car parking, subject to conditions.
- On 7 February 2024, Council approved DA/383/2017/C for the demolition of a shade canopy, tree removal and paving of the oval carpark.
- On 22 April 2024 Council approved Development Application No. DA/64/2024 for alterations and additions to the existing educational establishment
- On 5 February 2026, Council approved Development Application No. DA/2/2026 for the demolition of a shed on the site.

#### **APPLICATION HISTORY**

- On 14 January 2026 this development application was lodged with Council.
- Between 22 January 2026 and 11 February 2026, the development application was placed on public notification.
- On 27 February 2026, Council sent a request to the Applicant requesting additional section plans, as the section plans submitted with the Development Application did not include the existing building. Further the Applicant's proposed stormwater system was not supported, and no demolition plan had been submitted.
- On 10 March 2026, an amended Statement of Environmental Effects, amended engineering plans and amended architectural plans were submitted by the Applicant.
- On 10 March 2026, Council advised the Applicant that an amended Clause 4.6 Variation Request would be required, to be commensurate with the definition of existing ground level.
- On 23 March 2026, the General Terms of Approval were received from NSW Rural Fire Service.
- On 1 April 2026, Council contacted the Applicant requesting confirmation on the how the heights were calculated in the Clause 4.6 Variation Request as these appeared to be in error.
- On 7 April 2026, Council provided further advice to the Applicant on the preparation of an amended Clause 4.6 Variation Request and identified to the Applicant that the Cut and Fill Plan was submitted in error. Council also requested the Operational Waste Management Plan.
- On 9 April 2026, the Applicant submitted an amended Clause 4.6 Variation Request, Operational Waste Management Plan and a Cut and Fill Plan.

#### **THE SITE**

The subject site is identified as Lot 1 DP 1042630, No. 449C Pennant Hills Road, Pennant Hills, and is known as Mount St Benedict College. The site has an area of 4.5Ha and is located on the southern side of Pennant Hills Road, one property to the west of the corner of Beecroft Road.

The land slopes in a southerly direction away from Pennant Hills Road towards the rear of the site. The land also exhibits a cross fall from west to east. The current built upon area of the site has a reasonably gentle slope; however, the land drops steeply from the edge of the built upon areas into the densely vegetated remnant Blue Gum High Forest from the middle to the rear of the site.

Mount St Benedict College is a Catholic girls' high school with an approved enrolment of 920 students. The existing development comprises a number of substantial buildings (eight in total) which are single storey, two storeys and three storeys in height. Several demountable classrooms (four in total) are also situated on site as well as a number of car parking areas. There are 115 car spaces on site. A number of sporting fields are situated on a level expanse of land in the northwestern corner of the site.

An easement for the Northconnex tunnel corridor traverses the site from the south-west to the north-east. The southern portion of the site contains dense bushland identified as Blue Gum High Forest, which is a critically endangered ecological community. The site's bushland area forms part of the headwaters of Devlin's Creek.

The site is adjoined to the west by an existing convent, 'The Sisters of the Good Samaritan' and to the east by a reserve with frontage to Beecroft Road which contains significant vegetation. The south of the property is adjoined by a mixture of residential developments, both single dwelling houses and multi-unit residential.

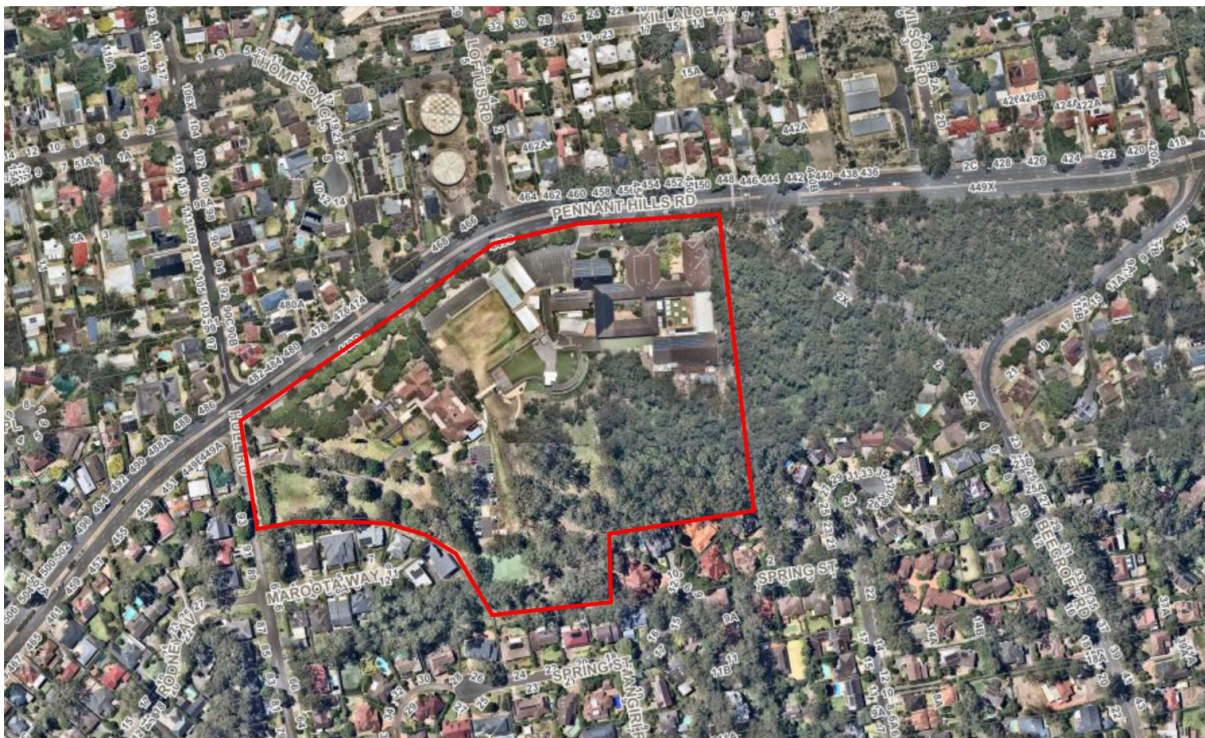


Figure 1: Aerial Photo (Source: NearMaps)

## PROPOSAL

The proposal seeks consent for the construction of a covered outdoor learning area (COLA) and a covered outdoor walkway connecting the Hildegard Building (Block H) and O Block in the northern corner of the site.

Specifically, the proposal seeks:

- Demolition of an existing pathway, light posts and fence, and parapet wall on northern elevation of the existing building.
- Construction of a COLA above the Hildegard Building.
- Construction of path linking the O Block Demountable to the proposed COLA.
- Construction of a new entry door to the existing lift lobby on the Hildegard Building.
- Removal of existing tree.
- Construction of a new footpath and walkway to the MSB College Centre via the Hildegard Building.
- Construction of a new walkway rooftop overlay with the existing glass awning of the MSB Centre.
- Construction of a new ramp to provide an accessible path of travel.

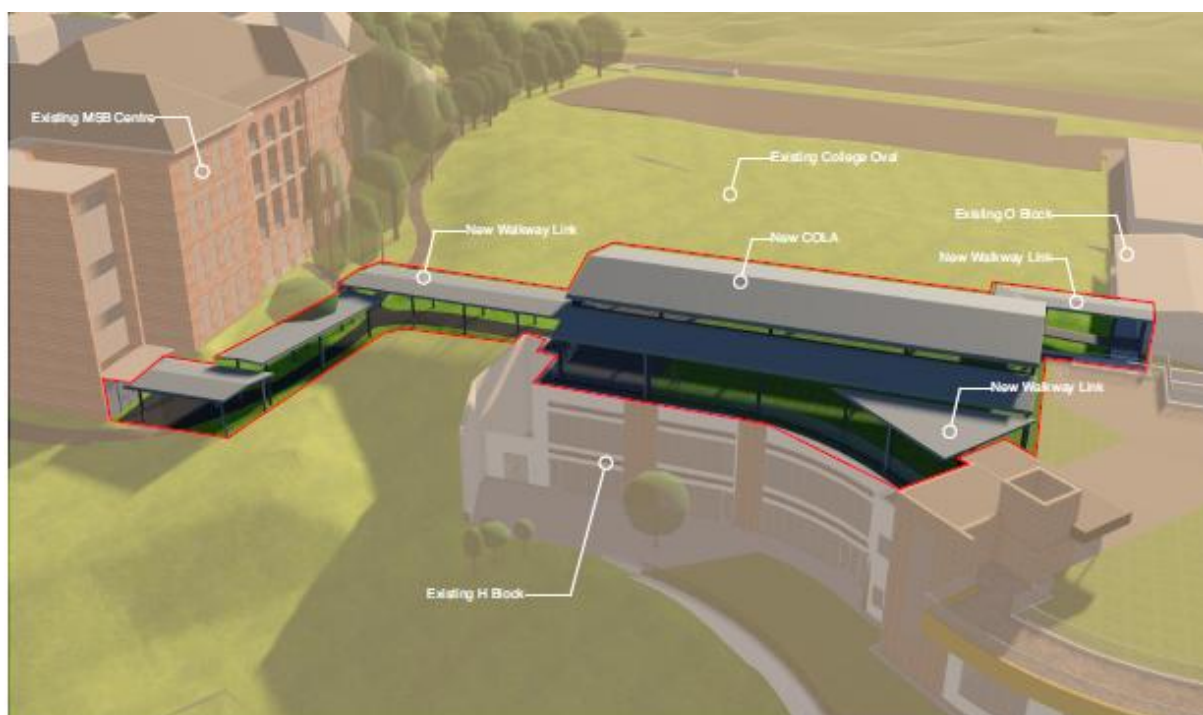


Figure 2: Photomontage of proposed development (Source Stanton Dahl Architects)

## ASSESSMENT

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

### 1. STRATEGIC CONTEXT

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

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

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 North District Plan includes priorities and actions for Northern District over the next 20 years.

The proposed development would maintain consistency with the Plan by providing additional educational facilities to support a growing population.

Part 3 of the strategy relates to 'Infrastructure and Collaboration', and a key objective is to provide services and infrastructure to meet communities' changing needs. Further, the strategy cites changing demographics will affect the types and distribution of services required in neighbourhoods.

Between 2016-2036, there are projected to be 333,000 more children and young people aged 5-19 years. The identified challenge for Hornsby Shire would be to provide additional infrastructure for students and young people.

The proposed alterations and additions to an educational establishment would be consistent with the objectives of the strategy by providing enhanced internal amenity to an existing educational establishment.

The proposal would provide direct, all-weather and safe walking, connections that can be used by people of all ages and abilities within the educational establishment.

Creating opportunities for increased shared use and more flexible use of under-utilised facilities, such as schools, sports facilities, open space, halls and creative spaces, can support growth and respond to the different needs of local demographics groups.

Planning for new schools, and the use of existing schools, must respond to growth and changing demand in innovative ways such as more efficient use of land, contemporary design, greater sharing of spaces and facilities, and flexible learning spaces. Safe walking and cycling links to schools encourage young people to be more active and better connect schools with local communities. They can reduce local congestion around schools, improving safety for children and families.

The design and management of open space, cultural spaces and the public realm need to consider the needs of children and young people (refer to Planning Priority N6).

## **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).

### **2.2 Zoning of Land and Permissibility**

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

- *To provide for the housing needs of the community within a low-density residential environment.*

- *To enable other land uses that provide facilities or services to meet the day-to-day needs of the residents.*

The proposed development is defined as 'educational establishment' and is permissible in the R2 zone with Council's consent. The proposed development would provide for educational facilities for the current college population, thereby providing an educational service to meet the day-to-day needs of the local residents and the school community. The proposal is consistent with the objectives of the zone.

### 2.3 Height of Buildings

Clause 4.3 of the HLEP provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 8.5m. The proposal has a maximum height of 16.05m and does not comply with this provision.

#### Development Application No. DA/1234/2015

Development Application No. DA/1234/2015 for the Hildegard Building was approved at a maximum height of 17.55 metres from existing ground level to the top of the lift shaft and as such was approved subject to a Clause 4.6 Variation to Clause 4.3 Building Height. The measurement of building height was taken from natural ground level (prior to filling).

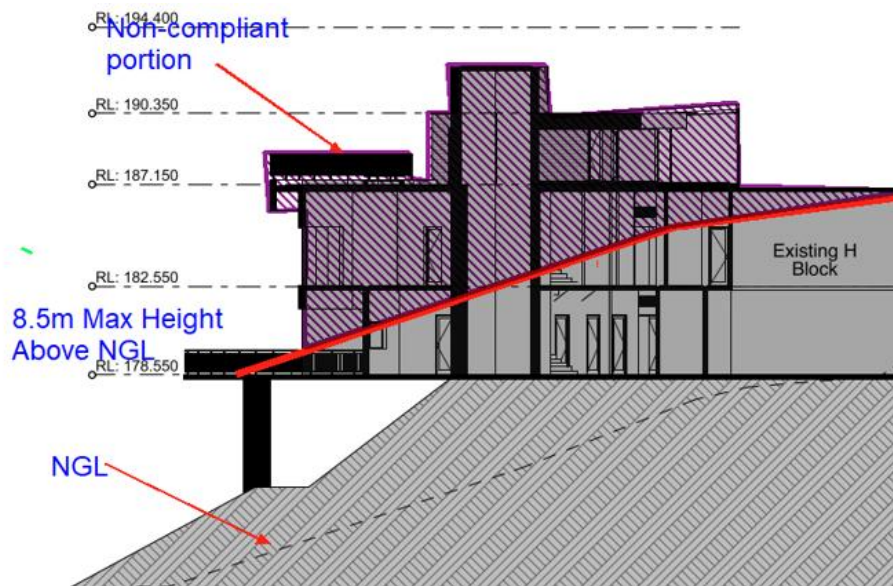


Figure 3: Extract of Section Plan showing height contravention under DA/1234/2015

#### This Development Application

The COLA roof structure is 7.4m in height. The ridge height of the COLA roof is 194.5m RL. However, the COLA roof is to be located over the existing Hildegard building which has two partially subterranean storeys. This results in a total building height of 16.05m.

It is noted that since the DA/1234/2015, the interpretation of building height in the NSW Land and Environment Court has evolved. Therefore, the way building height has been calculated under Development Application No. DA/1/2026 differs from the method of calculation under DA/1234/2015.

In *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] The Court said:

- the existing level of the site at a point **beneath** the existing building is the level of the land at that point; and
- the 'ground level (existing)' within the footprint of the **existing** building is the existing excavated ground level on the site.

As a result, the Court determined building height is measured from the **excavated** ground level (within the footprint of the existing building) to the highest point of the proposal directly above.

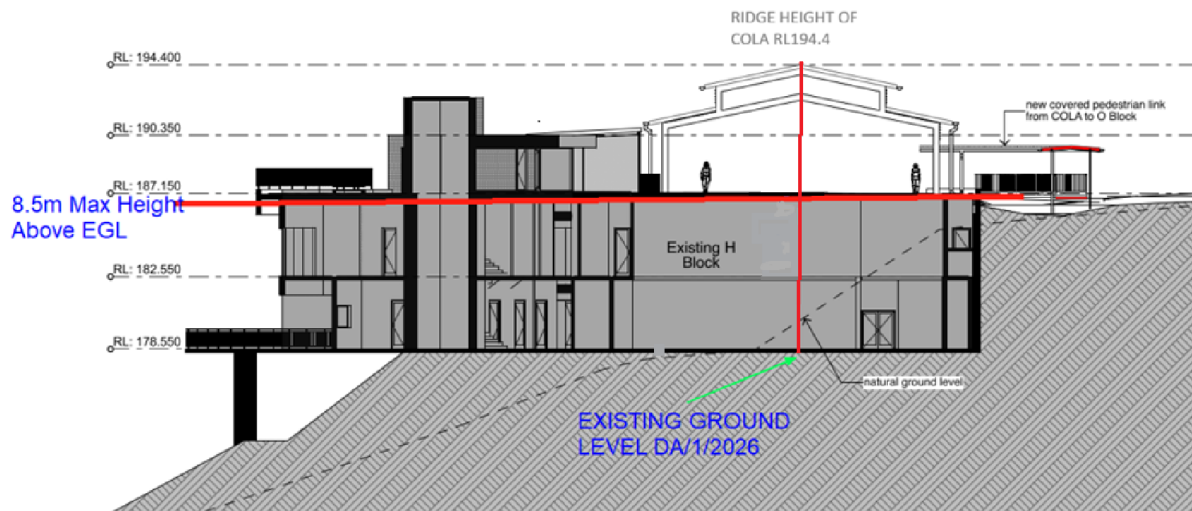


Figure 4: Extract of Section Plans (Source: Stanton Dahl Architects marked up by Council)



Figure 5: Site photo of existing Hildegard Centre looking towards the south elevation (Source: HSC)

## 2.4 Exceptions to Development Standards

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

The proposal exceeds the Clause 4.3 Height of Buildings development standard in the R2 Low Density Residential Zone under Hornsby Local Environmental Plan 2013. The maximum building height in the R2 Zone is 8.5m. The COLA will have a maximum height of 16.05m which is a variation of 88%

The objectives of Clause 4.3 Height of Buildings development of the HELP are as follows:

- (1) *The objectives of this clause are as follows—*
  - (a) *to permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.*
- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The applicant has made a submission in support of the contravention to the development standard in accordance with Clause 4.6 of the HLEP. Clause 4.6 provides that development consent must not be granted for development that contravenes a development standard unless the consent authority has

considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that:

- (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *there are sufficient environmental planning grounds to justify contravening the development standard.*

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2008] NSW LEC 118, Preston CJ clarified the correct approach to dealing with a written request under Clause 4.6 to justify the contravention of a development standard.

In relation to determining the matter under cl 4.6(3)(a), the unreasonable or unnecessary clause, the consent authority must be satisfied that the applicant's written request adequately addresses the matter as opposed to of making its own judgement regarding whether compliance is unreasonable or unnecessary. Additionally, the clause does not require that a non-compliant development should have a neutral or beneficial effect relative to a compliant development.

In relation to determining the matter under cl 4.6(3)(b), the environmental planning grounds clause, non-compliant development is not required to result in a 'better environmental planning outcome for the site' relative to a compliant development. Instead, the requirement is only that there are sufficient environmental planning grounds to justify the development standard contravention.

Council must be satisfied that the written request provided by the applicant under Clause 4.6 addresses both the unreasonable and unnecessary test and demonstrates sufficient environmental planning grounds to justify contravening the development standard. These matters are discussed below.

#### **2.4.1.1 Unreasonable or Unnecessary Clause 4.6(3)(a)**

There are five common methods by which an applicant can demonstrate that compliance with a development standard is unreasonable or unnecessary in the circumstances of the development. Initially proposed for objections under clause 6 of SEPP 1 in the decision of *Wehbe v Pittwater Council* [2007] NSWLEC 827 Pearson C summarised and applied these methods to written requests made under Clause 4.6 in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 [61-62]. These five methods are generally as follows:

- The objectives of the development standard are achieved notwithstanding non-compliance with the standard.
- The underlying objective or purpose is not relevant to the development.
- That the objective would be defeated or thwarted if compliance was required.
- That the development standard has been virtually abandoned or destroyed by the Council's own actions in departing from the standard.
- The zoning of the land is unreasonable or inappropriate.

It is not required to demonstrate that a development meets multiple methods as listed above, and the satisfaction of one can be adequate to demonstrate that the development standard is unreasonable or unnecessary.

The written request prepared by Urbis, dated 9 April 2026 provides a detailed assessment of the proposal with respect to the development standard sought to be contravened. The request argues that:

- *The proposed COLA height will not result in unreasonable bulk or scale and is sympathetic to the existing scale of other buildings on the MSB campus. The height variation will follow the existing development pattern onsite and will not result in intensity of land-use.*
- *The objective speaks to permitting building heights that are appropriate to a site's constraints. The current maximum building height of 8.5m is not responsive to variances in topography on sites. As such, complying with 8.5m specific to MSB campus' undulating topography would hinder developing buildings that feasible and responsive to the site's constraints.*
- *Previously, development Consent was provided to Mount St Benedict College to vary the height control under DA/1234/2015. This consent allowed the construction of Hildegard Building to a non-compliant height of 17.55m. A precedence has been set to depart from the HLEP's maximum building height control. The proposed development, inclusive of an additional 7.3m height to support the COLA roof structure, will not result in visual or acoustic impacts for neighbouring residential properties to the south due to the Hildegard building being set within a ridgeline basin, and located centrally within the site. Site lines will not be disrupted despite this additional height.*

Council notes that the objective of Clause 4.3 of the HLEP are as follows:

- (a) *to permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.*

With reference to the reasoning provided by the applicant above, Council does not object to the conclusion that the proposed additions meet the objectives of Clause 4.3. In reaching this conclusion the following points are noted:

For the reasons outlined above, Council considers that the written request adequately demonstrates that the objectives of the height of buildings development standard contained within Clause 4.3 of the HLEP are achieved, notwithstanding non-compliance with the standard.

Council is therefore satisfied that Clause 4.6(3)(a) of the HLEP is adequately addressed.

### **2.1.3.2 Environmental Planning Grounds - Clause 4.6(3)(b)**

In addition to demonstrating that compliance is unreasonable or unnecessary, Clause 4.6(3)(b) requires that there are sufficient environmental planning grounds to justify contravening the development standard. In demonstrating that sufficient environmental planning grounds exist it must be demonstrated that the planning grounds are particular to the circumstances of the development on the subject site (summarised from *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 [60]).

The applicant provided the following planning grounds for the contravention of the development standard:

- *Response to Site Context and Topography - The site's physical characteristics, including its slope and surrounding built form, necessitate a taller building envelope to achieve a coherent and functional design. The increased height allows the building to step with the terrain and align with the scale of nearby structures, avoiding abrupt changes in height that could detract from the streetscape. Additionally, the shaded but open design of the COLA and walkways do not result in reduction of open space access or cross-ventilation for the site.*

- *No Unacceptable Adverse Impacts* - Technical reports supporting the DA outline that the proposed height will not result in unreasonable overshadowing, loss of privacy, or obstruction of key view corridors for low density residential dwellings to the north or south. Furthermore, the proposed height will not exceed that of other buildings across the MSB campus, with the Mount St Benedict College Centre to the west resting taller, the proposed height is appropriate to the development pattern onsite. The building's articulation, siting, and materiality ensure that the perceived bulk and scale are moderated when viewed from public spaces.
- The height variation is justified on environmental planning grounds because it enables a design that is responsive to the site's constraints, improves environmental performance, and delivers positive urban design outcomes without causing adverse impacts. The proposal is consistent with the objects of the EP&A Act and represents an appropriate and sustainable form of development for the locality.
- The proposed development seeks to continue supporting the operation of the site as an education facility. The proposed works allow for increased student and staff amenity by offering infrastructure that is useable in all-weather conditions. The proposed works, through design, support accessibility and are part of a masterplan to upgrade and improve the wider campus to the benefit of staff and students. The COLA, which will vary the height standard if approved, will not result in any negative social, economic or environmental impacts onsite or to surrounding development.

Council considers that the environmental planning grounds stated within the written request are sufficient with respect to Clause 4.6(3)(b) and that the stated grounds are specific to the proposed development and the circumstances of the development site. It is therefore considered that the written request adequately demonstrates compliance with the clause and is acceptable in this regard.

Due to the significant fall of the site, the proposal COLA structure would not be discernible from Pennant Hills Road, nor Hull Road.

In demonstrating the unreasonable and unnecessary test, the applicant further established satisfactory environmental planning grounds with respect to the site and the surrounding constraints.

Council is therefore satisfied that Clause 4.6(3)(b) of the HLEP is adequately addressed.

Local Planning Panels constituted under the *Environmental Planning and Assessment Act 1979* exercise consent authority functions on behalf of a Council and are not delegates of Council. Therefore, Local Planning Panels may determine a development application notwithstanding, a numerical non-compliance in excess of 10%.

Accordingly, it is considered that the written request satisfactorily responds to the relevant matters required to be addressed under Clause 4.6(3) and that the Panel, as the consent authority, may rely upon the written request and grant consent to the proposed development.

#### **2.4.2 Heritage Conservation**

Clause 5.10 of the HLEP sets out heritage conservation provisions for Hornsby Shire.

The property is located within the Beecroft Cheltenham Heritage Conservation Area under the provisions of Schedule 5 (Environmental Heritage) of the HLEP. The property is also located within the vicinity of a number of heritage items, including 'Mount Saint Benedict Convent and grounds' at

No.449D Pennant Hills Road, '*Blackwood Memorial Sanctuary, including North Road culvert*' located at the corner of Beecroft Road and Pennant Hills Road.

The proposed alterations and additions are compliant with the objectives and controls for heritage items, HCAs generally, the Beecroft Cheltenham HCA and heritage in the vicinity under Parts 9.4, 9.6, 9.7 and 9.13 of the HDCP. The proposed covered walkway and COLA would have no adverse impact on the heritage item, character of the HCA or the visual setting items within the vicinity.

Further discussion on heritage is included in Section 2.7.7 of this report.

### 2.4.3 Earthworks

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

The application proposes excavation associated with the covered walkway. This excavation would entail the removal of approximately 15m<sup>3</sup> of material from the site. At its deepest point, the excavation would be 540mm below the existing ground level, with the majority of the excavation works being confined within the proposed covered walkway.

A Construction Waste Management Plan has been prepared to support the construction of the COLA and covered walkways onsite. The plan outlines expected waste streams, quantities, and methods for handling, re-use, recycling, and disposal

Council's assessment of the proposed works and excavation concludes that the proposed development does not involve substantial earthworks.

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 minor landform modification would not have any detrimental effect on drainage patterns and soil stability in the locality of the development.
(b) the effect of the development on the likely future use or redevelopment of the land	The extend of cut and fill is minor. The excavation would be isolated in 29m <sup>2</sup> area which would facilitate the construction of the covered walkway.
(c) the quality of the fill or the soil to be excavated, or both	Any fill would be sourced from materials excavated from the site.
(d) the effect of the development on the existing and likely amenity of adjoining properties	The proposed development is located centrally in the site and would not be discernible from any street or adjoining properties.
(e) the source of any fill material and the destination of any excavated material	Any fill would be sourced from materials excavated from the site. The Waste Management Plan identifies that excavated material would be used onsite where practical.
(f) the likelihood of disturbing	Council has no record of any Aboriginal historical items or

relics	events of note on the subject site. While there are European Heritage items on the wider site, these items are not in the vicinity of the development footprint. Further the landform modification would be minimal. 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	There is no drinking water catchment within close proximity to the site.
(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development	Appropriate measures have been included as conditions of development consent in Schedule 1 of this report to avoid, minimise and mitigate the impacts of the development.

#### 2.4.4 Terrestrial Biodiversity

Clause 6.4 of the HLEP applies to the proposal as part of the site is identified as 'Biodiversity' on the Terrestrial Biodiversity Map. It is noted that the development footprint is not mapped as 'Biodiversity'.

This Clause requires Council to consider whether the development is likely to adversely impact on the ecological value of flora and fauna and for Council to be satisfied that development has been designed, sited and managed to avoid any significant adverse environmental impact.

The site contains remnant Blue Gum High Forest which is listed as Critically Endangered under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* and a Critically Endangered Ecological Community under the *NSW Threatened Species Conservation Act 1995*.

A Flora and Fauna Assessment was prepared by Narla Environmental Pty Ltd (dated December 2025).

Only one tree (a Red Flowering Gum) is to be removed. This species is endemic to Western Australia.

Section 3.1.2 of this report provides further commentary regarding biodiversity.

Subject to conditions, the proposal is unlikely to have an adverse impact on the condition, ecological value and significance of the flora and fauna on the site.

#### 2.5 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The application has been assessed against the requirements of Chapter 2, 4 and 6 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

##### 2.5.1 Chapter 2 Vegetation in Non-Rural Areas

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

Part 2.9 of the policy states that a development control plan may make a declaration in any manner relating to species, size, location and presence of vegetation. Accordingly, Part 1.2.6.1 of the HDPC prescribes works that can be undertaken with or without consent to trees and objectives for tree preservation.

Section 3.1.1 of this report provides an assessment in accordance with Part 1.2.6.1 Tree Preservation of the HDCP.

### **2.5.2 Chapter 4 Koala Habitat Protection**

- (1) *This section applies to land to which this Chapter applies if the land—*
  - (a) *has an area of at least 1 hectare (including adjoining land within the same ownership), and*
  - (b) *does not have an approved koala plan of management applying to the land.*
- (2) *Before a council may grant consent to a development application for consent to carry out development on the land, the council must assess whether the development is likely to have any impact on koalas or koala habitat.*
- (3) *If the council is satisfied that the development is likely to have low or no impact on koalas or koala habitat, the council may grant consent to the development application.*

A Flora and Fauna Assessment was prepared by Narla Environmental (dated December 2025). As part of the Flora and Fauna Assessment a site assessment was undertaken to determine whether the land contained core koala habitat, which is defined by the SEPP as:

- *an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas are recorded as being present at the time of assessment of the land as highly suitable koala habitat, or*
- *an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas have been recorded as being present in the previous 18 years.*

Narla Environmental concluded that while the subject property was assessed as suitable habitat, defined as areas where 15% or more of the total number of trees are regionally relevant species listed in Schedule 2 of the SEPP, the closest record of a koala is 1km from the Subject Site, from 2019. No signs of koala occupancy (scat, scratch marks) were identified within the Survey Area during the site assessment in October 2025. The one (1) tree to be removed is not a preferred feed species.

A Flora and Fauna Assessment does not identify the presence of any koala feed trees listed under Schedule 2 of the Policy. The site is therefore not considered a 'potential koala habitat' and no further investigations are required for the purpose of Chapter 4 Koala Habitat Protection of the Biodiversity and Conservation SEPP.

### **2.5.3 Chapter 6 Water Catchments**

The site is located within the catchment of Sydney Harbour. The aim of this chapter is to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained. This chapter provides general planning considerations and strategies to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained.

The plan addresses matters related to biodiversity, ecology and environment protection; public access to, and use of, foreshores and waterways; maintenance of a working harbour; interrelationship of waterway and foreshore uses; foreshore and waterways scenic quality; maintenance, protection and enhancement of views and boat storage facilities.

Subject to the implementation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would have minimal potential to impact on the Sydney Harbour Catchment and would comply with the requirements of chapter 6 of the Biodiversity and Conservation SEPP.

## **2.6 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.

### **2.6.1 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.

An examination of Council's records and aerial photography has determined that the site has been historically used for residential purposes. It is not likely that the site has experienced any significant contamination, and Council is satisfied that the land is suitable for the proposed use and that further assessment under chapter 4 of the Resilience and Hazards SEPP is not required.

The site has been in operation by the Sisters of Good Samaritan for over 90 years, with Mount St Benedict College occupying the adjacent site for the previous 50 years.

The site has never been used for industrial or commercial purposes, and the site is not listed on Council's records as being subject to contamination.

The proposed development does not involve substantial earthworks which could be seen to disturb potentially contaminated soils. The potential for contamination is considered low, and the site is expected to remain suitable for its intended use without posing a risk to human health.

Should any unexpected contamination be encountered during the works, it will be assessed and managed in accordance with all relevant legislation and guidelines.

Council's Environmental Protection Officer has assessed this development application and has found it to be satisfactory.

The proposal is considered to be consistent with the Resilience and Hazards SEPP and Council is satisfied that the land is suitable for the proposed use.

## **2.7 State Environmental Planning Policy (Transport and Infrastructure) 2021**

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

### **2.7.1 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 Pennant Hills Road.

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 is facilitated via an entry to access will be via the existing College service driveway off Hull Road, which satisfies this requirement. A Preliminary Construction Management Plan was prepared by Spectrum Property and Projects in support of the application. A condition of consent would require details of traffic control be included in a Construction Management Plan to be submitted prior to the issue of the Construction Certificate.

In regard to Section 2.119(2)(b), the Applicant provided a Construction Management Plan identifying that access will be via the existing College service driveway off Hull Road. It is not expected that the traffic noise or congestion would be generated on the classified road during the construction process.

Subject to these conditions, Council is satisfied that the safety, efficiency and operation of the classified road would not be adversely impacted by the proposal.

In regard to Section 2.119(2)(c), The subject land adjoins Pennant Hills Road. The proposed COLA structure would provide all-weather play area and would be located approximately 64m from the classified road (Pennant Hill Road) to ensure staff and students are not impacted by vehicle emissions or noise.

### **2.7.2 Impact of Road Noise or Vibration on Non-road Development**

Section 2.120 applies to development the purpose of an educational establishment that is adjacent to any road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration.

Before determining a development application for development to which this section applies, the consent authority must take into consideration any guidelines that are issued by the Planning Secretary for the purposes of this section and published in the Gazette.

Council has considered Part C "Development Impacted by Rail Corridors and Busy Roads" of the Department of Planning "Development Near Rail Corridors and Busy Road- Interim Guideline (dated December 2009) in the assessment of this development application. The Guidelines reference the equivalent Clause 102 "Impact of Road Noise or Vibration on Non-road Development" in the now repealed State Environmental Planning Policy (Infrastructure) 2007.

Under this Guideline only noise sensitive building developments with a clear line-of-sight to the road traffic on roads with a traffic volume of 40,000 Annual Average Daily Traffic (AADT) need to be assessed for noise mitigation measures.

The site has a frontage to Pennant Hills Road which has an annual average daily traffic volume of 27,349 vehicles. The structure would be located approximately 66m from Pennant Hills Road. The solid masonry fence along Pennant Hills Road acts as an acoustic fence. The proposed structures are open air structures proposed to enhance existing outdoor areas of the site. Any noise or vibration experienced as a result of the site's proximity to Pennant Hills Road are existing.

Accordingly, Council has not requested the submission of an acoustic report in this instance as Council is satisfied that the proposal complies with Section 1.210 of the Transport and Infrastructure SEPP.

### 2.7.3 Excavation in or immediately adjacent to corridors

Section 2.121 applies to development that involves the penetration of ground to a depth of at least 3m below ground level (existing) on land that is the road corridor of Northconnex Tunnel.

Excavation is proposed with a maximum depth of 540mm. Therefore, referral to Transport for NSW is not required in this instance.

### 2.7.4 Educational Establishments

Chapter 3 of the Transport and Infrastructure SEPP provides planning controls for school development, with further controls within Schedule 8 which relate to the design quality of the development.

### 2.7.5 Chapter 3 Educational Establishments/Design Quality Principles

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

The applicant provided documentation regarding how the development was designed in accordance with these principles, within the Statement of Environmental Effects prepared by Urbis (dated December 2025) addressing Schedule 8 Design Quality Principals in Schools of the Transport and Infrastructure SEPP. An assessment of the development against the seven principles is provided within the below table:

The seven design principles are set out in the following table.

Principle	Comment	Complies
<b>1 Responsive to context</b>		
<ul style="list-style-type: none"> <li>Schools should be designed to respond to and enhance the positive qualities of their surroundings.</li> <li>In designing built forms and landscapes, consideration should be given to a Country-centred approach and respond to site conditions such as orientation, topography, natural systems, Aboriginal and European cultural heritage and the</li> </ul>	The COLA and walkway have been designed to be responsive to site topography, sympathetic to landscaped areas and surrounding school buildings, and respectful of the fabric and interpretation of the proximal heritage item.	Yes

<p>impacts of climate change.</p> <ul style="list-style-type: none"> <li>Landscapes should be integrated into the overall design to improve amenity and to help mitigate negative impacts on the streetscape and neighbouring sites.</li> </ul>		
<b>2 Sustainable, efficient and resilient</b>		
<ul style="list-style-type: none"> <li>Good school design combines positive environmental, social and economic outcomes and should align with the principles of caring for Country.</li> <li>Schools should be designed to be durable and resilient in an evolving climate.</li> <li>Schools and their grounds should be designed to minimise the consumption of energy, water and other natural resources and reduce waste.</li> </ul>	<p>The proposed development would not result in any negative social, economic or environmental outcomes to the site or surrounding properties. The design allows for student and staff use in all weather conditions, making it responsive and durable to an evolving climate.</p>	<p>Yes</p>
<b>3 Accessible and inclusive</b>		
<ul style="list-style-type: none"> <li>School buildings and grounds should be welcoming, easy to navigate and accessible and inclusive for people with differing needs and abilities.</li> <li>Schools should be designed to respond to the needs of children of different ages and developmental stages, foster a sense of belonging and seek to reflect the cultural diversity of the student body and community.</li> <li>Schools should be designed to enable sharing of facilities with the community and to cater for activities outside of school hours.</li> </ul>	<p>The COLA and walkways have been designed to ensure ease of navigation and access for all ages and abilities. Clear sightlines and wayfinding are maintained throughout.</p> <p>An accessibility Design Assessment Report was prepared by Hontas Hatzi &amp; Co (dated 8/12/2025)</p>	<p>Yes</p>
<b>4 Healthy and safe</b>		
<ul style="list-style-type: none"> <li>Good school design should support wellbeing by creating healthy internal and external environments.</li> <li>The design should ensure safety and security within the school boundaries, while maintaining a welcoming address and accessible environment.</li> <li>In designing schools, consideration should be given to connections, transport networks and safe routes for travel to and from school.</li> </ul>	<p>The proposal supports the school in creating healthy, safe and covered external environments for staff and students to use and enjoy at all times and in all weather conditions. Clear view lines are maintained to ensure passive and active surveillance to the space for student and staff safety. The proposal does not include any changes to the school's existing transport and access arrangement.</p>	<p>Yes</p>

<b>5 Functional and comfortable</b>		
<ul style="list-style-type: none"> <li>Schools should have comfortable and engaging spaces that are accessible for a wide range of formal and informal educational and community activities.</li> <li>In designing schools, consideration should be given to the amenity of adjacent development, access to sunlight, natural ventilation, proximity to vegetation and landscape, outlook and visual and acoustic privacy.</li> <li>Schools should include appropriate indoor and outdoor learning and play spaces, access to services and adequate storage.</li> </ul>	<p>The COLA and covered walkways provide amenity for staff and students that is accessible and useable during all weather conditions. It provides a covered outdoor area which has not previously been provided onsite.</p> <p>The orientation and siting of the development ensure its compatibility with the rest of the school site and would not result in any negative visual or acoustic impacts on neighbouring residential properties to the south.</p>	Yes
<b>6 Flexible and adaptable</b>		
<ul style="list-style-type: none"> <li>In designing schools, consideration should be given to future needs and take a long-term approach that is informed by site-wide strategic and spatial planning.</li> <li>Good design for schools should deliver high environmental performance and ease of adaptation and maximise multi-use facilities.</li> <li>Schools should be adaptable to evolving teaching methods, future growth and changes in climate, and should minimise the environmental impact of the school across its life cycle.</li> </ul>	<p>The proposed development is part of a masterplan for Mount St Benedict College and has been formed and designed to be responsive to current and potential future needs onsite.</p>	Yes
<b>7 Visually appealing</b>		
<ul style="list-style-type: none"> <li>School buildings and their landscape settings should be aesthetically pleasing by achieving good proportions and a balanced composition of built and natural elements.</li> <li>Schools should be designed to respond to and have a positive impact on streetscape amenity and the quality and character of the neighbourhood.</li> <li>The identity and street presence of schools should respond to the existing or desired future character of their locations.</li> <li>The design of schools should reflect the</li> </ul>	<p>The proposed works are contained internal to the Mount St Benedict campus; their siting and orientation will not result in any negative visual or acoustic impacts to surrounding development. The design is sympathetic to the contemporary built form of other buildings onsite and subordinate to the local heritage Convent.</p>	Yes

school's civic role and community significance.		
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As outlined in the table above, the proposal is considered to be generally consistent with the design quality principles outlined in Schedule 8 of the Transport and Infrastructure SEPP.

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

## 2.8 Draft Environmental Planning Instrument

There are no current draft environmental planning instruments.

## 2.9 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.

## 2.10 Hornsby Development Control Plan 2024

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the Hornsby Development Control Plan 2024 (HDCP). The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

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

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

<b>HDCP - Part 7.1 Community Uses</b>			
<b>Control</b>	<b>Proposal</b>	<b>Requirement</b>	<b>Complies</b>
Site Area	4.5Ha	N/A	N/A
Site Width	370m	min. 60m	Yes

Building Height	16.5m	8.5m	No
Site Coverage	No change (20%)	On merit	N/A
Floor Area	No change	max. 430m <sup>2</sup>	N/A
Setbacks			
- Front	64m	9m	Yes
- North eastern Side	140m	2m	Yes
- South western Side	99m	2m	Yes
- Rear	110m	8m	Yes
Landscaping (min.45% of site)	>20,250m <sup>2</sup>	min. 20,250m <sup>2</sup>	Yes
Car Parking	N/A	spaces	N/A

As detailed in the above table, the proposed development generally complies with the prescriptive measures within the HDCP. A brief discussion on compliance with relevant performance requirements is provided below and Part 1 General Controls are addressed in Section 3 of the report.

#### 2.10.1 Site Requirements

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

The maximum site coverage on a site over 1500m<sup>2</sup> under Part 3.1.1h Scale of the HDCP is 30%. The existing educational establishment has a site coverage of approximately 20%. The definition of site coverage means the proportion of a site area covered by buildings. As the COLA roof and covered walkways are open structures, they do not contribute site coverage.

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

#### 2.10.2 Scale

The desired outcome of Part 7.1.2 of HDCP is to encourage “development with a height, scale and intensity that is compatible with the character of the area”. This desired outcome is supported by the prescriptive control that in the R2 Low density residential zone apply the height and site controls for dwelling houses in Part 3.1 of the HDCP.

The maximum building height in R2 Low Density Zone is 8.5m. A height of 16.05m is proposed. This is a variation of 88%. However, the variation is considered to be acceptable for the following reasons:

- The COLA is a lightweight structure not capable of being enclosed. Ball mesh fencing would surround the COLA walls however this would be semi-transparent.
- The COLA structure would comply with the maximum building height requirement on the northern side of the structure.

- The COLA structure would not be perceptible from the Pennant Hills Road nor Hull Road. The frontage of the site along Pennant Hills Road is approximately 4m higher than the natural ground level surrounding the building. Additionally, the frontage of the site is screened by a solid masonry fence and vegetation.

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

### 2.10.3 Design Details

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

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

The proposed development would be setback 68m from Pennant Hills Road and 171m from Hull Road, as well as being approximately 150-200m from Spring Street, Blackwood Close and Maroota Way and therefore would not be highly discernible from the streetscape. The colour palette, being a mixture of dark greys would be recessive in appearance. A traditional pitched roof form has been selected to harmonise with the heritage listed buildings on the site. No additional rooftop plant or services are proposed as part of this development application.

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

### 2.10.4 Open Space/Landscaping

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

The existing school complies with the minimum landscaping requirements under Part 7.1.4 of the HDCP. As the COLA roof would be located over an existing building, there would be negligible reduction to landscaping of the site.

The HDCP prescribes recreation space for schools should be provided at a minimum rate of 20m<sup>2</sup> per student. Recreation areas include internal sports facilities such as gymnasiums, swimming pools and the like, although does not include parking areas driveways, verandas, services areas. Based on the school population (1232 students) a total requirement of 24,640m<sup>2</sup> (2.46 Ha) to recreation space is required. Under

Development Application No. DA/1234/2015 for the Hildegard Building, noted a shortfall of 1.3ha of recreational area. This shortfall was considered to be acceptable due to the various on-site and off-site recreation spaces available to the students. The existing outdoor learning area above the Hildegard Building provides additional recreational space for students. The roof space is accessible

from the hockey fields to the north and comprises sitting areas, shade umbrellas and planter boxes. No reduction of the available recreational space would occur as a result of the proposal to construct a roof structure over the current outdoor learning area. The proposed COLA roof would enhance the amenity of this rooftop area during inclement weather.

The area of the proposed covered walkway would not significantly reduce the available recreational space on the site.



Figure 6: Extract of approved landscape plans of the Hildegard Building (DA/1234/2015/A)

### 2.10.5 Privacy, Security and Sunlight

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

#### 2.10.5.1 Privacy

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

The setbacks of the proposed development from the property boundary ensure the proposal would not impact on the privacy of adjoining residential development.

#### 2.10.5.2 Security

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

The covered walkway would provide more efficient wayfinding around the site, by making pedestrian pathways more easily identifiable and accessible. Mesh fencing would be installed around the sides of the COLA structure to ensure objects such as sporting equipment do not fall from the elevated COLA to the school grounds. The existing security measures for the school, would prevent unauthorised access to the COLA.

### 2.10.5.3 Sunlight

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

The proposed COLA structure is located centrally on the site. The closest adjoining property would be 125m from the proposed COLA roof structure (Ludovic Blackwood Memorial Sanctuary). Therefore, despite the non-compliant height of the structure, it would not create any loss of solar access to any adjoining property.

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

### 2.10.6 Vehicular Access and Parking

The desired outcomes of Part 7.1.7 Vehicle Access and Parking of the HDCP are “development with simple, safe and direct vehicular and pedestrian access” and “carparking that meets the requirements of future occupants and their visitors”.

The proposed COLA structure would not result in additional staff or students attending the educational establishment, and therefore there would be no increase in operational traffic or carparking demand as a result of this development application.

There may be temporary traffic and pedestrian disruptions during the construction of the COLA and associated works.

Pedestrian movements within the educational establishment would be temporarily displaced due to the reconstruction the covered pedestrian pathways.

The Applicant submitted a Preliminary Construction Management Plan (PCMP) prepared by Spectrum Property & Projects (undated) in support of this development application.

Construction access to the site would be via the existing service driveway from Hull Road. Deliveries would occur between 9:30am and 2:30pm to avoid conflict with peak school traffic. Separate pedestrian access would be provided with 1.8m hoarding and signage.

Council’s Environmental Protection Team assessed the Preliminary Construction Management Plan and concluded that the PCMP provided is unsatisfactory, however it is a preliminary plan. Due to the sensitive nature of the site being a school, and access is via a residential street, a condition requiring a Construction Management Plan with the inclusion of a Traffic Management Plan is recommended

The proposal complies with the desired outcomes of Part 7.1.7 Vehicle Access and Parking of the HDCP and is considered acceptable.

### 2.10.7 Heritage

The desired outcomes of Part 9 Heritage of the HDCP are to “retain and conserve the environmental heritage of Hornsby Shire, including places of Aboriginal cultural heritage, heritage items, archaeological sites, and heritage conservation areas”, “to ensure the heritage significance, fabric, and setting of heritage items and heritage conservation areas are conserved” and “to ensure development in the vicinity of heritage items and heritage conservation areas respects the heritage item or place”.

The subject property is listed as a heritage item, located within a heritage conservation area and in the vicinity of a heritage items listed under Schedule 5 of the HLEP.

The heritage listings are identified below:

- Heritage Item
  - Item No. 653 - "Mount St. Benedict's Convent and grounds"
- Heritage Conservation Area (HCA)
  - Beecroft-Cheltenham Heritage Conservation Area (HCA) - Beecroft North Precinct
- Heritage Item in the Vicinity
  - Item No. 677 - 'Limona', 23 Thompson Close (470–472 Pennant Hills Road), Pennant Hills
  - Item No. 838 - Blackwood Memorial Sanctuary, 2X Beecroft Road, Pennant Hills
  - Item No. A61 - New Line Road embankment, 2X Beecroft Road, Pennant Hills

The Beecroft North precinct is characterised by development responsive to the topography with a mix of housing from the mid to late twentieth century, some federation bungalows and some early twenty-first century development. It comprises of generally low-scale housing on large blocks with formal gardens, mature trees, and low front fences.

Property No. 449C/D Pennant Hills Road, Pennant Hills is located on the southern side of Pennant Hills Road. It contains an educational establishment, Mount St Benedict College comprising of 7 interconnected buildings, 2 separate buildings, ancillary buildings, play equipment, sporting oval, Good Samaritan Sisters Church and ancillary buildings. The buildings and landscaping date from c1890 to the present day, representative of over various phases of use and development across the site. The site is heavily vegetated to the south and adjoins a densely vegetated park, Ludovic Blackwood Memorial Sanctuary (Heritage Item 838 and A61).

The Heritage Impact Statement (HIS) prepared by URBIS submitted with the application provides an accurate description of the site, its locality, context, history and heritage significance, including the built elements within and around the site.

Council's heritage assessment of the proposed works is detailed in the below table:

HDCP Provision	Heritage Comment
Heritage Items 9.4.1. Tolerance for Change 9.4.6 Siting 9.4.7 Scale and Form 9.4.11 External Colours, Materials & Finishes	The heritage assessment provided in the HIS is supported, identifying that the covered walkway and COLA: <ul style="list-style-type: none"> <li>• adopt a sympathetic, contemporary design consistent with the principles of The Burra Charter</li> <li>• are modest in scale, visually recessive, and clearly subordinate to the Convent</li> <li>• incorporate a tiered hipped roof that complements the existing roof form of the Convent without direct replication</li> <li>• are located on the eastern elevation, which is not a primary frontage, and set well back from the Convent to minimise</li> </ul>

HDCCP Provision	Heritage Comment
	visual impact <ul style="list-style-type: none"> <li>• will not impact the Convent's significant fabric, original form, or setting.</li> </ul>
HACs 9.6.5 Views & Vistas 9.6.6 Streetscape Character 9.6.7 Architectural Styles 6.4.10 Scale and Form	The heritage assessment provided in the HIS is supported, identifying that: <ul style="list-style-type: none"> <li>• the covered walkway and COLA are confined to contemporary areas of the site.</li> <li>• key view lines to the Convent and its principal elevations will be retained</li> <li>• visual prominence and contribution of the Convent to the HCA will be preserved.</li> <li>• the proposed work is a sympathetic, contemporary design consistent with the principles of The Burra Charter.</li> <li>• the proposal will not alter the established subdivision pattern, setbacks, landscape character, or visual character of the HCA.</li> </ul>
Beecroft-Cheltenham HAC Table 9.7-c: Additional Prescriptive Measures	The heritage assessment provided in the HIS is supported, identifying that the proposal: <ul style="list-style-type: none"> <li>• retains the predominantly single-storey scale of the surrounding heritage context</li> <li>• does not alter the existing pattern of detached, low scale buildings within the grounds</li> <li>• is modest and visually broken up through the open nature of the walkway and tiered roof form of the COLA, avoiding any sense of bulk.</li> </ul>
9.13 Heritage in the Vicinity	The heritage assessment provided in the HIS is supported, identifying that heritage in the wider vicinity will remain unaffected due to the absence of a direct visual relationship and the limited visibility of the works from the public domain.

The proposed alterations and additions are compliant with the objectives and controls for heritage items, HCAs generally, the Beecroft Cheltenham HCA and heritage in the vicinity under Parts 9.4, 9.6, 9.7 and 9.13 of the HDCCP. The proposed covered walkway and COLA would have no adverse impact on the heritage item, character of the HCA or the visual setting items within the vicinity.

The proposal generally complies with the desired outcomes of Part 9 Heritage of the HDCCP and is considered acceptable.

## 2.11 Section 7.12 Contributions Plans

Hornsby Shire Council Section 7.12 Contributions Plan 2019-2029 applies to the development as the estimated costs of works is greater than \$100,000 (being \$2,378,560).

Part 2.8 of the Section 7.12 Contributions Plans provides some exemptions to the requirement to pay contribution fees. An exemption to contribution fees is applicable where the Applicant is a charity demonstrated by submission of evidence in the form of a Certificate of Registration with the Australian Charities and Not-for-Profit Commission.

The Applicant provided an ASIC Certificate demonstrating that they are a registered charity with the Australian Charities and Not-for-Profits Commission (ACNC). Therefore Section 7.12 Contributions have been waived in this instance.

## **2.12 Housing and Productivity Contribution**

The Housing and Productivity Contribution would not apply to the development as it does not result in any additional gross floor area for industrial/commercial/retail development.

## **2.13 Planning Agreements**

Section 4.15 (1) (a)(ii) of the Act requires Council to consider the provisions of any planning agreement. The development does not include a Planning Agreement.

## **2.14 Environmental Planning and Assessment Regulation 2021**

Section 61 of the Environmental Planning and Assessment Regulation 2021 (the Regs) contains matters that must be taken into consideration by the consent authority in determining a development application, with the following matters being relevant to the proposal:

- If demolition of a building proposed - provisions of AS2601

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the Regs are relevant to the proposal. A BCA and Fire Safety Assessment Report was prepared by Hontaz Hatzi & Co (dated 08 December 2025). The report identifies that pursuant to Section 64 of the Environmental Planning and Assessment Regulation 2021, the fire safety of the existing buildings is required to be undertaken by the Consent Authority as part of the Development Application process.

This development application was referred to Council's building surveyor who had no objections to the proposal subject conditions of consent relating to the Building Code of Australia and the requirement for Fire Safety Schedules and statements.

Section 63 (considerations for erection of temporary structures) of the Regs are not relevant to the proposal.

These provisions of the Regs have been considered and are addressed in the recommended draft conditions (where necessary).

## **3. ENVIRONMENTAL IMPACTS**

Section 4.15(1)(b) of the Act requires Council to consider *"the significant 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 Tree and Vegetation Preservation**

The site contains Blue Gum High Forest (BGHF) Vegetation Community:

The subject site and/or adjoining land contain/s tree species protected by the Tree Preservation Order contained in Part 1.2.6 of the Hornsby Development Control Plan 2024 (HDCP) and the Biodiversity Conservation Act 2016 (BCA) and/or the Environmental Protection of Biodiversity Conservation Act 1999 (EPBC).

The proposed development would necessitate the removal of one (1) tree numbered T88 *Corymbia ficifolia* (Red Flowering Gum) from the site. The application has been supported by an Arborist report prepared by Urban Arbor (dated 12 December 2025) that assesses Tree no. T88 as requiring significant canopy pruning (approximately 35% of the canopy) and therefore the T88 would no longer be viable for retention. Therefore, the Arborist recommended the removal of this tree.

A condition of consent would require the removal of being trees numbered T88 being offset through replacement planting of a minimum of two (2) trees that are of species known to occur naturally in Blue Gum High Forest.

This development application was referred to Council's Tree Management Officer who concluded whilst tree loss is not ideal, however there is sufficient space on the site to provide compensatory plantings of locally occurring species to maintain the local amenity.

### **3.1.2 Biodiversity**

Native vegetation is being removed as part of the proposed development. The one (1) tree to be removed is a species endemic to Western Australia

A Flora and Fauna Assessment has been submitted by Narla Environmental (dated December 2025) in support of this development application. The assessment concludes that while the Subject Property contains land mapped as 'Biodiversity Values' within the Biodiversity Values Map this mapping does not extend into the Subject Site. Therefore, as no native species will be impacted within the areas identified as containing Biodiversity Values, the BOS is not triggered.

### **3.1.3 Stormwater Management**

A stormwater management plan by Intrax Projects (dated 9 December 2025), proposed a new headwall structure including a sediment and erosion control plan. The strategy seeks an additional stormwater pit and supporting piping, was initially submitted with the current development application.

The development application was referred to Council's Development Engineer who advised that the proposed new headwall outlet structure is not supported and the discharge from the on-site detention system shall be connected to the existing internal drainage system. There appears to be an existing stormwater pit adjacent the footpath downstream of the covered walkway and proposed on-site detention system. Therefore, the applicant was encouraged to connect the new works to the existing stormwater system for the site.

Subsequently amended civil engineering plans were submitted by Intrax Projects dated 5 March 2026 which depicted a new detention pit to discharge into the existing system on the site. These amended plans were referred to Council's Development Engineer who had no objections subject to compliance with the recommended conditions of consent.

Under Development Application DA/1234/2015 for the Hildegard Centre a positive covenant was required to be created over the on-site stormwater detention system.

Council's Development Engineer advised that the on-site detention system shall be amended so the post-development discharge rate during the 2% AEP storm (50 Year ARI) is no more than the pre-development discharge rate during the 50% AEP storm (5 Year ARI). Detailed calculations or DRAINS model shall be submitted to Council for assessment.

The Applicant provided correspondence prepared by Intrax Projects (dated 6 March 2026) to justify the proposed design of the on-site detention system.

Council's Development Engineer was satisfied with the Applicant's alternative solution to on-site stormwater detention subject to compliance with the recommended conditions of consent.

#### **3.1.4 Earthworks**

A small amount of excavation and fill would be required to achieve the required gradient for the covered walkway.

A Cut and Fill Plan was submitted by Stanton Dahl Architects (dated 10 April 2026). 15.7m<sup>3</sup> of excavation is proposed with a maximum depth of 540mm. Approximately 11.3m<sup>3</sup> of fill with a maximum height of 115mm is proposed. It is anticipated that any fill would be sourced from the excavated material on the site.

The Demolition and Construction Management Plan prepared by Elephants Foot Consulting (dated 9 December 2025) indicates reuse of excavated material on-site. The balance of the excavated materials (4.4m<sup>3</sup>) would be disposed of at an approved facility.

No retaining structures would be required to support the landform modification.

#### **3.1.5 Bushfire**

The desired outcomes of Part 1.3.3.1 Bushfire under the HDCCP encourage "*development that is located and designed to minimise the risk to life and property from bushfires*".

The Rural Fires Act 1997 (RFA) makes provision for the prevention, mitigation and suppression of fires. Clause 4.46 of the Act identifies development which requires authorisation under section 100B of the RFA as integrated development. The site is identified as bushfire prone land and an educational establishment is identified to be a Special Fire Protection Purpose as per Section 6 of Planning for Bushfire Protection 2019.

In support of Development Application No. DA/1234/2015 for the Hildegard Building, an Integrated Vegetation and Fire Management Plan was prepared by Keystone Ecological (dated 12 July 2016) for the areas occupied by the Critically Endangered Ecological Community Blue Gum High Forest (BGHF) within the Asset Protection Zone (APZ) which included the replanting of 65 trees on the site. This IVFMP was to be implemented for a term of 5 years.

The subject development application is accompanied by a Bushfire Assessment Report prepared by Building Code & Bushfire Hazards Solutions Pty Ltd (dated 8 December 2025).

The subject development application is considered integrated development and was referred to the RFS who issued a Bushfire Safety Authority for General Terms of Approval (GTAs) under Section 100B of the Rural Fires Act 1997 (RFA) on 23 March 2026.

The GTAs include conditions on the creation and maintenance of APZs in accordance with the construction standards, access, water, landscaping, emergency and evacuation planning assessment and utility services. A condition of consent is recommended to ensure compliance with the requirements of the General Terms of Approval (GTAs).

One of the conditions of the NSW Rural Fire Services GTAs is that the area around the proposed building works must be managed as an inner protection area for a distance of 49m. Appendix 4 of Planning for Bushfire Protection 2019 specifies that an Inner Protection Area should have a canopy cover for no greater than 15%.

The bushfire report by Building Code & Bushfire Hazards Solutions Pty Ltd (dated 8 December 2025). States that The APZs consist of maintained grounds and hard surfaced areas within the subject property and existing managed land within the subject site. No tree removal is required, and no additional tree planting is recommended.

### **3.1.6 Flooding**

A portion of the 4.5ha site is mapped as being within the 1% AEP flood extent. However, the development footprint is not mapped as flood prone and there would be no habitable floor area as a result of this proposal. This development application was referred to Council's Development Engineer who had no objections to the development on the basis of flooding.

### **3.1.7 Waste Management**

A Construction and Demolition Waste Management Plan was prepared by Elephants Foot Consulting (dated 9 December 2025).

An Operational Waste Management Plan was prepared by Mount St Benedict College (dated April 2026). No change in Waste Management for the college is proposed as a result of this development application.

### **3.1.8 Built Form**

The COLA would be well setback from Pennant Hills Road and would be adequately separated from the adjoining heritage item. Given then the generous setbacks to public roads and dwellings, the COLA roof would not be discernible from any road or adjoining property.

The COLA has been designed to relate to the site constraints, is of quality architectural design and is acceptable with respect to the built environment

### **3.1.9 Design**

The COLA and covered walkways are considered to be lightweight structures, finished in dark recessive colours.

The development adopts a sympathetic, contemporary design which is modest in scale, visually recessive, and subordinate to the heritage listed convent

The development incorporates a tiered hipped roof that complements the existing roof form of the Convent without direct replication.

The design is considered appropriate in the context of the existing educational establishment.

### **3.1.10 Traffic**

There would be a minor, temporary increase in construction traffic as a result of the proposal. A Preliminary Construction Management Plan (PCMP) was prepared by Spectrum Property and Projects (undated).

The proposed development is not considered to generate traffic volumes that are unreasonable to existing transport, traffic and access arrangements for the site and the surrounding road network. Access will be via the existing College service driveway off Hull Road.

The PCMP identifies that construction vehicles will be managed under an approved Traffic Control Plan. Additionally, the PCMP identifies that Deliveries will occur between 9:30 a.m. and 2:30 p.m. to avoid school peak hours. Pedestrian segregation will be achieved with 1.8m hoarding and signage, and emergency access will be always maintained.

Waste vehicle servicing will be required infrequently based on construction waste generation. Parking is available in several locations across the site for construction vehicles. The site is also serviced by several public transport options in close proximity, assisting worker access.

A condition of Consent would require the preparation of a Construction Management Plan which includes the preparation of a Traffic Control Plan.

As there is no increase in the number of staff or students as a result of this proposal, there would be no additional operational traffic.

### **3.1.11 Air Quality**

The Preliminary Construction Management Plan prepared by Spectrum Property & Projects identifies that during construction Low-noise plant will be utilised, and dust will be managed with water sprays and dust screens.

Minimal landform modification would occur as a result of this development. However, a standard condition has been included in the consent requiring that the Applicant must take all reasonable steps to minimise dust generated during all works (including remediation, demolition, earthworks and construction)

During operation, the proposed open structure would not have any impact on air quality, as it would function as part of the existing educational establishment.

### **3.2 Noise and Vibration**

A Preliminary Construction Management Plan (PCMP) has been prepared by Spectrum Property and Projects in support of the development application. The strategy outlines measures to be adopted to reduce noise and vibration disruptions to staff and students onsite during the construction process.

The PCMP identifies that high noise activities will be scheduled outside of college assemblies or exam periods, coordinated through the school administration. Low-noise plant will be utilised, and. Any vibration impacts near occupied buildings will be monitored and recorded.

During operation, the proposed COLA and walkway is unlikely create additional noise impacts. The COLA would cover an existing recreational area which was approved by Council as part of Development Application No. DA/1234/2015.

### **3.3 Social Impacts**

The covered outdoor learning area would probably opportunities for students to congregate for socialisation and recreation in all weather. The covered walkways would provide accessible all-weather access through the site, which would promote wellbeing and inclusivity.

### **3.4 Economic Impacts**

The proposed development would improve the economic viability for the college by providing attractive facilities for the amenity of students and staff.

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

## **4. SITE SUITABILITY**

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

The site is considered to be capable of accommodating the proposed development. The scale of the proposed development is consistent with the capability of the site and is considered acceptable.

### **4.1 Flooding**

Part of the land the subject of the development is identified as being below the 1:100 year flood level. This development application was referred to Council’s Development Engineer who had no objections to the development application and raised no concerns in relation to flooding. The majority works would be above an existing building, with the balance of the works being open, non-habitable

structures. Therefore, the development would not be affected by flood behaviour. The site is considered for the development in respect to flooding.

**4.2 Bushfire Risk**

As noted in Section 3.1.5 of this report, the subject site is identified as being bushfire prone, the application was referred to the NSW Rural Fire Service for concurrence.

Conditions provided by NSW RFS have been recommended in Schedule 1 of this report with regard to the utilisation of BAL-29 construction methods and asset protection zone requirements.

The site is considered suitable for the development in respect to bushfire risk.

**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 28 January 2026 and 11 February 2026 in accordance with the Hornsby Community Engagement Plan. During this period, Council did not receive any public submissions. The map below illustrates the location of those nearby landowners who were notified of the development site.



**NOTIFICATION PLAN**

<ul style="list-style-type: none"> <li>• PROPERTIES NOTIFIED</li> </ul>	<ul style="list-style-type: none"> <li><b>X</b> SUBMISSIONS RECEIVED</li> </ul>	 PROPERTY SUBJECT OF DEVELOPMENT	
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## 5.2 Public Agencies

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

### 5.2.1 Rural Fire Service

The development application was referred to the NSW Rural Fire Service as integrated development under Section 100B of the Rural Fires Act 1997. General Terms of Approval were received on 23 March 2026.

## 6. THE PUBLIC INTEREST

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

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

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

## CONCLUSION

The application proposes construction of a covered outdoor learning area (COLA) and a covered walkway.

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

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

The reasons for this decision are:

- In accordance with Clause 4.6 of the Hornsby Local Environmental Plan 2013, Council is satisfied that the applicant’s written request has adequately addressed the matters required to be demonstrated by clause 4.6(3)(a) and (b) of the Hornsby Local Environmental Plan 2013 that:
  - Compliance with the development standards is unreasonable and unnecessary in the circumstances of the case, and
  - There are sufficient environmental planning grounds to justify contravening the development standard.
- The proposed development complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2024.



- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, solar access, amenity or privacy.

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

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

ROD PICKLES  
Manager - Development Assessments  
Planning and Compliance Division

**Attachments:**

1.  Clause 4.6 Written Request
2.  Architectural Plans

File Reference: DA/1/2026  
Document Number: D09301214

## SCHEDULE 1

# GENERAL CONDITIONS

**ITEM 2**

Condition
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### 1. Approved Plans and Supporting Documentation

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

#### Approved Plans

Plan No.	Plan Title	Drawn by	Dated	Council Reference
3228.25 A0141 Rev. P06	Proposed Site Plan	Stanton Dahl Architects	05/12/2025	
3228.25 A0211 Rev. P04-1	Demolition Plan	Stanton Dahl Architects	05/03/2026	
3228.25 A0212 Rev. P08-2	Proposed Plan	Stanton Dahl Architects	05/03/2026	
3228.25 A0213 Rev. P05	Roof Plan	Stanton Dahl Architects	05/12/2025	
3228.25 A0214 Rev.P01	Cut and Fill Plan	Stanton Dahl Architects	10/04/2026	
3228.25 A0321 Rev. P06	Elevations 1	Stanton Dahl Architects	05/12/2025	
3228.25 A0322 Rev. P06	Elevations 2	Stanton Dahl Architects	05/12/2025	
3228.25 A0331 Rev. P07-2	Section 1	Stanton Dahl Architects	06/03/2026	
3228.25 A0332 Rev. P07-1	Section 2	Stanton Dahl Architects	06/03/2026	
3228.25 A0333 Rev. P01-1	General Sections	Stanton Dahl Architects	05/03/2026	
D3228.25 A0701 Rev. P03	Materials and Finishes	Stanton Dahl Architects	05/12/2025	

Supporting Documentation

Document Title	Prepared by	Dated	Council Reference
Stormwater Concept Plan Sheets C0000, C1000, C1100, C2001, C2050 Rev A	Intrax Projects	09/12/2025	D09291418
Heritage Impact Statement	Urbis	Dec 2025	D09291416
Flora and Fauna Assessment Report V1.0	Narla Environmental Pty Ltd	Dec 2025	D09291414
Construction and Demolition Waste Management Plan No.708210 Rev. B	Elephants Foot Consulting	09/12/2025	D09291408
Waste Management Plan	Mount St Benedict College	April 2026	D09354565
Preliminary Construction Management Plan	Spectrum Property and Projects	Undated	D09291406
Bushfire Assessment Report No.250219B	Building Code & Bushfire Hazard Solutions Pty Limited	08/12/2025	D09291404
BCA and Fire Safety Assessment Report Ref: BCADAR_25238_R1.0	Hontas Hatzi & Co	08/12/2025	D09291399
Arboricultural Impact Assessment Ref: 2512_MSBC_AIA_R1	Urban Arbor	12/12/2025	D09291397
Civil Engineering Drawings Sheets C0000 Rev A, C1000 Rev B, C1100 Rev A, C2001 Rev B, C2050 Rev. A	Intrax Projects	05/03/2026	D09334010
Stormwater Consultant Advice Notice	Intrax Projects	06/03/2026	D09334014
Accessibility Design Assessment Report Ref: BCADAR_25283_R1.0	Hontas Hatzi & Co	08/12/2025	D09291396
Heritage Impact Statement	Urbis Ltd	December 2025	D09291416
Flora and Fauna Assessment Report MSSB1 v1.0	Narla Environmental Pty Ltd	December 2025	D09291414

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

## 2. No Clearing of Vegetation

1. Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.
2. Details demonstrating compliance are to be submitted to the Certifier prior to issue of Construction Certificate.

*Reason: To protect vegetation on the site.*

### 3. Tree Pruning

Works can be undertaken in the form of canopy modification as follows:

1. All specified pruning works must be less than 10 percent as directed by the Project Arborist.
2. All pruning work must be undertaken by an arborist with minimum AQF3 qualifications.

*Note: The pruning of any other trees from the site requires separate approval by Council in accordance with Part 1.2.6 Tree and Vegetation Preservation of the Hornsby Development Control Plan 2024.*

*Reason: To minimise the impact on trees to be retained.*

### 4. Construction Certificate

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

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

### 5. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	Document Title/ Ref	Dated	Council Reference
NSW Rural Fire Service	General Terms of Approval (REF. DA20260210000504-Original-1)	23/03/2026	D09348266

*(NOTE: For a copy of the above referenced document/s, please see Application Enquiry System on Council's website [www.hornsby.nsw.gov.au](http://www.hornsby.nsw.gov.au))*

*Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.*

## BUILDING WORK

### BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition
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### 6. Building Code of Australia

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

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

#### **7. Fire Safety Schedule**

A schedule of all proposed essential fire safety measures to be installed in the building (e.g. hydrants, hose reels, emergency warning systems etc.) shall be submitted with the construction certificate application. The schedule shall distinguish between existing and proposed fire safety measures.

*Reason: To ensure all fire safety measures are identified to protect life and property.*

#### **8. Sydney Water Building Plan Approval**

The plans must be approved by Sydney Water prior to demolition, excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Any amendments to plans will require re-approval. Please go to [Sydney Water Tap in®](#) to apply.

*Note: Sydney Water recommends developers apply for a Building Plan Approval early as to reduce unnecessary delays to further referrals or development timescales.*

*Reason: To ensure the development complies with the requirements of Sydney Water.*

#### **9. Construction Management Plan**

To assist in the protection of the public, the environment and Council's assets, a separate Construction Management Plan must be prepared by a suitably qualified environmental consultant in consultation with a qualified traffic engineer and AQF 5 arborist and approved by Council's Compliance Team via Council's Online Services Portal prior to issue of a Construction Certificate.

The Construction Management Plan (CMP) must include the following details:

1. Description of the works
  - a. A description of the scope of works for all stages of development.
  - b. Site plans for all stages of works including the location of site sheds, concrete pump, and crane locations, unloading, and loading areas, waste and storage areas, existing survey marks, vehicle entry, surrounding pedestrian footpaths and hoarding (fencing) locations.
  - c. The CTMP plans shall be in accordance with all other plans submitted to Council as part of this development proposal.
  - d. A statement confirming that no building materials, work sheds, vehicles, machines, or the like shall be allowed to remain in the road reserve area without the written consent of Hornsby Shire Council.
  - e. If there is a requirement to obtain a Work Zone, Out of Hours permit, partial Road Closure or Crane Permit, the Plan must detail these requirements and

- include a statement that an application to Hornsby Shire Council will be made to obtain such a permit.
- f. The Plan must state that the applicant and all employees of contractors on the site must obey any direction or notice from the Principal Certifier or Hornsby Shire Council in order to ensure the above.
- g. The CMP must detail all responsible parties ensuring compliance with the document and include the contact information for developers, builder, Principal Certifier, and any emergency details during and outside work hours.
2. A Construction Traffic Management Plan (CTMP) including the following:
- a. The order of construction works and arrangement of all construction machines and vehicles being used during all stages.
- b. The CTMP plans shall be in accordance with all other plans submitted to Council as part of this development proposal.
- c. The Plan shall be in compliance with the requirements of the Roads and Maritime Services Traffic control at work sites Manual 2018 and detail:
- i. Public notification of proposed works.
- ii. Long term signage requirements.
- iii. Short term (during actual works) signage.
- iv. Vehicle Movement Plans, where applicable.
- v. Traffic Management Plans.
- vi. Pedestrian and Cyclist access and safety.
- d. Traffic controls including those used during non-working hours. Pedestrian access and two-way traffic in the public road must be able to be facilitated at all times.
- e. Details of parking arrangements for all employees and contractors, including layover areas for large trucks during all stages of works. The parking or stopping of truck and dog vehicles associated with the development will not be permitted other than on the site and the plan must demonstrate this will be achieved.
- f. Proposed truck routes to and from the site including details of the frequency of truck movements for all stages of the development.
- g. Swept path analysis for ingress and egress of the site for all stages of works.
- h. The maximum number of trucks travelling to and from the site on any given day for each stage of works.
- i. The maximum number of truck movements on any given day during peak commuting periods for all stages of works.
- j. If there is a requirement to obtain a Work Zone, Out of Hours permit, partial Road Closure or Crane Permit, the Plan must detail these requirements and include a statement that an application to Hornsby Shire Council will be made to obtain such a permit.

3. A Tree Protection Plan (TPP) prepared by an AQF 5 Arborist in accordance with any approved Arboricultural Impact Assessment and tree location plans, detailing the following:
  - a. A site plan showing tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and specific details of tree protection measures inclusive of distances (in metres) measured from tree trunks.
  - b. Construction methodology to avoid damage to trees proposed to be retained during construction works.
  - c. Specifications on tree protection materials used and methods within the TPZ or SRZ.
  - d. Location of dedicated material storage space on site outside of TPZ's and SRZ's for retained trees.
4. The CMP must detail all responsible parties ensuring compliance with the document and include the contact information for developers, builder, Principal Certifier, and any emergency details during and outside work hours.

*Note: Advice on developing a suitable construction management plan or erosion sediment control plan can be obtained from Council's guides available at [www.hornsby.nsw.gov.au/property/build/construction](http://www.hornsby.nsw.gov.au/property/build/construction).*

*Note: The CMP must be lodged via Council's Online Services Portal at: <https://hornsbyprd-pwy-epw.cloud.infor.com/ePathway/Production/Web/Default.aspx> and by selecting the following menu options: Applications > New Applications > Under 'Application Types': Management Plans.*

*Reason: To document construction measures to protect the public and the surrounding environment.*

#### **10. Appointment of a Project Arborist**

1. To ensure the trees that must be retained are protected, a project arborist with AQF Level 5 qualifications must be appointed to assist in ensuring compliance with the conditions of consent and provide monitoring reports as specified by the conditions of consent.
2. Details of the appointed project arborist must be submitted to Council and the Principal Certifier with the application for the construction certificate.

*Reason: To ensure appropriate monitoring of tree(s) to be retained.*

#### **11. Stormwater Drainage**

The stormwater drainage system for the development must be designed in accordance with AUS-SPEC Specifications ([www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions](http://www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions)) and the following requirements:

1. Connected directly to the existing internal drainage system.

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

#### **12. On-Site Stormwater Detention**

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

1. The permissible discharge rate from the on-site detention system shall be restricted to the 20% AEP storm (5 Year ARI) for the pre-development site conditions for all storms up to the 2% AEP (50 Year ARI).
2. Have a surcharge/inspection grate located directly above the outlet.
3. Discharge from the detention system must be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.
4. Where above ground and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs must be installed; and
5. Not be constructed in a location that would impact upon the visual or recreational amenity of residents.

*Reason: To manage stormwater flows to minimise potential flooding.*

## **BEFORE DEMOLITION AND BUILDING WORK COMMENCES**

Condition
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### **13. Site Sign**

1. A sign must be erected in a prominent position on any site on which any approved work involving excavation, erection or demolition of a building is being carried out detailing:
  - a. The name, address, and telephone number of the Principal Certifier.
  - b. the name of the principal contractor (if any) for any demolition or building work and a telephone number on which that person may be contacted outside working hours; and
  - c. Unauthorised entry to the work site is prohibited.
2. The sign must be maintained during excavation, demolition and building work is being carried out and must be removed when the work has been completed.

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

### **14. Protection of Adjoining Areas**

1. A temporary hoarding, fence or awning must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:
  - d. Could cause a danger, obstruction, or inconvenience to pedestrian or vehicular traffic.
  - e. Could cause damage to adjoining lands by falling objects; and/or
  - f. Involve the enclosure of a public place or part of a public place; and/or
  - g. Have been identified as requiring a temporary hoarding, fence, or awning within the Council approved Construction Management Plan (CMP); and.
2. Council's separate written approval is required prior to the erection of any temporary hoarding, fence or awning on or over public land. The erection of a hoarding must be

applied for via Council's Online Services Portal together with details showing the location and type of hoarding.

*Note: The Hoarding/ Temporary Fencing application must be lodged via Council's Online Services Portal at:*

<https://hornsbyprd-pwy-epw.cloud.infor.com/ePathway/Production/Web/Default.aspx>

*and by selecting the following menu options: My Applications > New Applications > Under 'Application Types': Hoarding/ Temporary Fencing Applications.*

3. Where any part of the road or footpath is required to be occupied or closed during any stage of works, including demolition, excavation, construction or remediation, a temporary full / partial road or footpath closure permit must be approved by Council. The permit must be applied for via Council's Online Services Portal.

*Note: A Temporary Road/ Footpath Closure application must be lodged via Council's Online Services Portal at:*

<https://hornsbyprd-pwy-epw.cloud.infor.com/ePathway/Production/Web/Default.aspx>

*and by selecting the following menu options: Under 'Roads, Traffic and Parking': Temporary Full/ Partial Road Closure.*

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

#### **15. Notice of Commencement for Demolition**

At least one week before demolition work commences, written notice must be provided to council and the occupiers of neighbouring premises of the work commencing. The notice must include:

1. Name
2. Address,
3. Contact telephone number,
4. Licence type and license number of any demolition waste removal contractor and, if applicable, asbestos removal contractor,
5. The contact telephone number of council and
6. The contact telephone number of SafeWork NSW (4921 2900).

*Note: The written notice to Council can be sent to [devmail@hornsby.nsw.gov.au](mailto:devmail@hornsby.nsw.gov.au).*

*Reason: To advise neighbours about the commencement of demolition work and provide contact details for enquiries.*

#### **16. Toilet Facilities**

1. To provide a safe and hygienic workplace, toilet facilities must be available or be installed at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet for every 20 persons employed at the site.
2. Each toilet must:
  - a. Be a standard flushing toilet connected to a public sewer; or
  - b. Be a temporary chemical closet approved under the *Local Government Act 1993*; or

*Reason: To ensure adequate toilet facilities are provided.*

**17. Garbage Receptacle**

A garbage receptacle must be provided at the work site before works begin and must be maintained until all works are completed.

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

*Reason: To maintain the site in a clean condition and protect local amenity.*

**18. Erosion and Sediment Control Measures**

Install and maintain adequate sediment and erosion control measures for the duration of all works, until such a time that sediment, sediment laden water or any other material/substance can no longer migrate from the premises. The measures are to be installed and maintained in such a manner as to prevent sediment, sediment-laden water, or any other materials and substances migrating from the site onto neighbouring land, the roadway, waters and/or into the stormwater system, and in accordance with:

1. The publication Managing Urban Stormwater: Soils and Construction 2004 (4th edition) - 'The Blue Book'.
2. Protection of the Environment Operations Act 1997; and
3. The approved plans

Controls are to be monitored and adjusted where required throughout the works to ensure compliance with the above

*Note: On the spot penalties may be issued for any non-compliance with this requirement without any further notification or warning. If you are unsure in how to achieve compliance with this condition during works, you may need to engage the services of a suitably qualified environmental, soil or geotechnical consultant to assist.*

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

**19. Installation of Tree Protection Measures**

1. Trees to be retained and numbered T84, T85, T86, T87 as identified on the Tree Location/ Protection Plan Page #28 of the Arboricultural Impact Assessment Ref: 2512\_MSBC\_AIA\_R1 prepared by Urban Arbor dated 12 December 2025 must have tree protection measures for the ground, trunk and canopy installed by the project arborist as follows:
  - a. For the duration of demolition works, in accordance with the Tree Protection Plan prepared by Urban Arbor dated 12 December 2025.
  - b. For the duration of construction works, in accordance with Tree Protection Plan prepared by Urban Arbor dated 12 December 2025
2. Tree protection fencing for the trees to be retained must be installed by the engaged AQF 5 project arborist and consist of 1.8m high temporary fencing panels installed in

- accordance with Australian Standard AS4687-2007 Temporary fencing and hoardings.
3. The installation of all required tree protection fencing must include shade cloth attached to the fencing to reduce transport of dust, particulates, and liquids from entering the tree protection zone.
  4. Tree crown protection measures are required and must be installed by the AQF 5 project arborist.
  5. The circumference of the trunk(s) must be wrapped in hessian material to provide cushioning for the installation of timber planks.
  6. Timber planks (50 x100mm) must be spaced at 100mm intervals and must be attached using adjustable ratchet straps.
  7. All tree protection zones must have a layer of wood-chip mulch at a depth of between 150mm and 300mm.

*Reason: To protect trees during construction.*

## DURING DEMOLITION AND BUILDING WORK

Condition
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### 20. Hours of Work

1. All work on site (including remediation, demolition, construction, earth works and removal of vegetation), must only occur between 7am and 5pm Monday to Saturday.
2. No work is to be undertaken on Sundays or public holidays.

*Reason: To protect the amenity of neighbouring properties.*

### 21. Demolition

To protect the surrounding environment, all demolition work must be carried out in accordance with Australian Standard AS2601-2001 The Demolition of Structures and the following requirements:

1. Demolition material must be disposed of to an authorised recycling and/or waste disposal site and/or in accordance with an approved waste management plan; and
2. Demolition works, where asbestos material is being removed, must be undertaken by a contractor that holds an appropriate licence issued by SafeWork NSW in accordance with the Work Health and Safety Regulation 2017 and be appropriately transported and disposed of in accordance with the Protection of the Environment Operations (Waste) Regulation 2014; and
3. On construction sites where any building contains asbestos material, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and measuring not less than 400mm x 300mm must be displayed in a prominent position visible from the street.

*Reason: To ensure the appropriate removal and disposal of demolition materials.*

### 22. Street Sweeping

1. During works (including remediation, demolition, earthworks and construction) and until exposed ground surfaces across the site have been stabilised, street sweeping must be undertaken following sediment tracking from the site.
2. The street cleaning service must utilise a 'scrub and dry' method and be undertaken for the full extent of any sediment tracking.

*Note: The above Item does not permit for sediment and/or any other materials/substances to exit the site in a way that constitutes water pollution as defined in the Protection of the Environment Operations Act 1997 or in a manner that contravenes other conditions in this consent.*

*Reason: To minimise impacts to the natural environment.*

### **23. Council Property**

To ensure that the public reserve is kept in a clean, tidy, and safe condition during remediation, demolition, excavation and construction works:

1. No building materials, skip bins, concrete pumps, cranes, machinery, temporary traffic control, signs or vehicles associated with the development shall be stored or placed on Council's footpath, nature strip, roadway, park or reserve without the prior approval being issued by Council under section 138 of the Roads Act 1993.
2. All work, loading and unloading associated with the development are to occur entirely within the property boundaries, unless otherwise approved by Council under section 138 of the Roads Act 1993.

*Reason: To protect public land.*

### **24. Environmental Management (Air Pollution)**

The Applicant must take all reasonable steps to minimise dust generated during all works (including remediation, demolition, earthworks and construction) authorised by this consent. During works, the Applicant must ensure that:

1. Exposed surfaces and stockpiles are suppressed by regular watering.
2. All trucks entering or leaving the site with loads have their loads covered.
3. Trucks associated with the development do not track dirt onto the public road network.
4. Public roads used by these trucks are kept clean; and
5. Land stabilisation works are carried out progressively on site to minimise exposed surfaces.

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

### **25. Disturbance of Existing Site**

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

*Reason: To protect the natural features of the site.*

### **26. Soil Management (Excavation)**

While site work is being carried out, the Principal Certifier or Council (where a principal certifier is not required) must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

1. All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification, and the volume of material removed must be reported to the Principal Certifier or Council (where a principal certifier is not required).
2. Tipping docket for the total volume of excavated material that are received from the licensed waste management facility must be provided to the Principal Certifier prior to the issue of an Occupation Certificate.

*Reason: To ensure soil removed from the site is appropriately disposed.*

### **27. Landfill Not Permitted**

The importation of fill material associated with earthworks, or structural or engineering works, is not permitted as part of this consent.

*Reason: To minimise environmental impacts from landform modification.*

### **28. Compliance with Construction Management Plan**

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

*Reason: To ensure implementation of construction measures to protect the public and the surrounding environment.*

### **29. Building Materials and Site Waste**

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

*Reason: To protect trees during construction.*

### **30. Unexpected Finds**

Should the presence of asbestos or soil contamination, not recognised during the application process be identified during any stage of works, the applicant must immediately notify the Principal Certifier and Council ([compliance@hornsby.nsw.gov.au](mailto:compliance@hornsby.nsw.gov.au)).

*Reason: To ensure the appropriate removal and disposal of contaminated materials.*

### **31. Erosion and Sediment Control**

1. Works are not to result in the discharge of sediment and or run-off onto the adjoining properties or public land.
2. The person having the benefit of this consent must ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site.

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

*Reason: To minimise impacts on neighbouring properties and public land.*

### **32. Soil and Water Management (Stockpiles)**

1. Stockpiles of topsoil, sand, aggregate, soil or other material shall be protected with adequate sediment controls and must not be located on any drainage line or easement, natural watercourse, footpath or roadway.
2. The storage of stockpiled topsoil, sand, aggregate, soil or other materials must not result in the discharge of sediment or run-off onto the adjoining properties or public land.

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

### **33. Storage and Removal of Waste**

1. All demolition and/or construction waste must be stored in a waste receptacle and be removed from the site at frequent intervals. Materials are to be wholly contained within the waste receptacle and not overflowing.
2. All garbage and recyclable materials generated during work must be stored in a waste receptacle and be removed from the site at frequent intervals. Materials are to be wholly contained within the waste receptacle and not overflowing.

*Reason: To ensure the site is maintained to an appropriate standard cleanliness and prevent any nuisance or danger to health, safety or the environment.*

### **34. Removal of Trees**

This development consent permits the removal of tree(s) numbered T88 as identified on page 28 contained in the Arboricultural Impact Assessment Ref: 2512\_MSBC\_AIA\_R1 prepared by Urban Arbor dated 12 December 2025.

*Note: The removal of any other trees from the site requires separate approval by Council in accordance with Part 1.2.6 Tree and Vegetation Preservation of the Hornsby Development Control Plan 2024.*

*Reason: To identify only those trees permitted to be removed.*

### **35. Prohibited Actions within the Fenced Tree Protection Zone**

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

1. Soil cutting or filling, including excavation and trenching.
2. Soil cultivation, disturbance, or compaction
3. Stockpiling storage or mixing of materials
4. The parking, storing, washing, and repairing of tools, equipment, and machinery.
5. The disposal of liquids and refuelling
6. The disposal of building materials
7. The siting of offices or sheds
8. Any action leading to the impact on tree health or structure.

*Reason: To protect trees during construction.*

**36. Maintaining the Health of Trees Approved for Retention**

The appointed project arborist must monitor and record any and all necessary actions required to maintain tree health and condition for all trees to be retained identified on the Tree Location/ Protection Plan on page 28 of the Arboricultural Impact Assessment Ref: 2512\_MSBC\_AIA\_R1 prepared by Urban Arbor dated 12 December 2025.

*Reason: To ensure appropriate monitoring of tree(s) to be retained.*

**37. Maintaining Tree Protection Measures**

Tree Protection Measures must be maintained by the project arborist in accordance with Conditions of this consent for the duration of works.

*Reason: To protect trees during construction.*

**38. Approved Works within Tree Protection Zone Incursions**

1. Where tree root pruning is required for the installation of piers, driveway or underground services, the pruning must be overseen by the AQF 5 project arborist and must be undertaken as follows:
  - a. Using sharp secateurs, pruners, handsaws, or chainsaws with the final cut being clean.
  - b. The maximum diameter of roots permitted to be cut is 40 mm.
2. Where the building footprint enters or transects the Tree Protection Zones of trees to be retained, sensitive construction techniques in the form of screw pilings or piers, cantilevered or suspended slab design must be employed to create a 100mm clearance above existing soil grade.
3. Approved excavations within the Tree Protection Zone of trees to be retained not associated with installation of services must be undertaken as follows:
  - a. Excavations for the construction and/or installation of the pathway/piers in the Tree Protection Zone of trees to be retained on the approved plans must be supervised by the project arborist for the first 500m undertaken manually to locate roots and allow for pruning in accordance with point 10.1.(ii) above.
4. To minimise impacts within the Tree Protection Zone (TPZ) of trees to be retained, the installation of services must be undertaken as follows:
  - a. The AQF 5 project arborist must be present to oversee the installation of any underground services which enter or transect the tree protection.
  - b. The installation of any underground services which either enter or transect the designated TPZ must be undertaken manually.
  - c. For manually excavated trenches the AQF 5 project arborist must designate roots to be retained. Manual excavation may include the use of pneumatic and hydraulic tools.

*Reason: To protect trees during construction.*

**39. Waste Management**

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

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

## BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition
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### 40. Submission of Excavated Material Tipping Dockets to Principal Certifier

Tipping docket for the total volume of excavated material that are received from the licensed waste facility must be provided to the Principal Certifier prior to the issue of an Occupation Certificate.

*Reason: To confirm appropriate disposal of excavated material.*

### 41. Replacement Tree Requirements

1. The trees approved for removal under this consent, being trees numbered T88 must be offset through replacement planting of a minimum of two trees.
2. All replacement plantings must be species selected from the 'Trees Indigenous to Hornsby Shire (as of 1 September 2011)' document available for viewing on the Hornsby Council's website <http://www.hornsby.nsw.gov.au/environment/flora-and-fauna/tree-management/indigenous-trees> and are to be species known to occur naturally in Blue Gum High Forest.
3. The location and size of tree replacement planting must comply with the following:
  - a. All replacement trees must be located 4 metres or greater from the foundation walls of the approved development.
  - b. The pot size of the replacement trees must be a minimum 45 litres.
  - c. All replacement trees must be a minimum of 3 metres in height.
  - d. All replacement trees must have the potential to reach a mature height greater than 10 metres.

*Reason: To ensure replacement planting to maintain tree canopy.*

### 42. Final Certification by Project Arborist

The AQF 5 Project arborist must submit to the Principal Certifier a certificate that includes the following:

1. All tree protection requirements complied with the as approved tree protection plan for the duration of demolition and/or construction works; and
2. All completed works relating to tree protection and maintenance have been carried out in compliance with the conditions of consent and approved plans; and
3. Dates, times, and reasons for all site attendance; and
4. All works undertaken to maintain the health of retained trees; and
5. Details of tree protection zone maintenance for the duration of works.

*Note: Copies of monitoring documentation may be requested throughout the development works.*

*Reason: To ensure compliance with tree protection commitments.*

#### **43. Damage to Council Assets**

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

*Reason: To ensure public infrastructure and property is maintained.*

#### **44. Fire Safety Statement – Final**

In accordance with the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, upon completion of the building, the owner must provide Council with a certificate in relation to each fire safety measure implemented in the building.

*Reason: To ensure all fire safety measures are implemented to protect life and property.*

#### **45. Creation of Easements**

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

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

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

*Reason: To create legal entitlements to facilitate the proper use and management of land.*

#### **46. Construction of Engineering Works.**

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

*Reason: To ensure engineering works are completed.*

#### **47. Damage to Council Assets**

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

*Reason: To ensure public infrastructure and property is maintained.*

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**OCCUPATION AND ONGOING USE**

Condition
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**48. Fire Safety Statement - Annual**

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

*Reason: To ensure fire safety measures are maintained to protect life and property.*

**- END OF CONDITIONS -**

**ITEM 2**