



BUSINESS PAPER

Local Planning Panel meeting

Wednesday 28 October 2026

at 4:00 PM



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AGENDA AND SUMMARY OF RECOMMENDATIONS

PRESENT

ACKNOWLEDGEMENT OF COUNTRY

Statement by the Chairperson:

"Council recognises the Traditional Owners of the lands of Hornsby Shire, the Darug and Guringai peoples, and pays respect to their Ancestors and Elders past and present and to their Heritage. We acknowledge and uphold their intrinsic connections and continuing relationships to Country."

AUDIO RECORDING OF LOCAL PLANNING PANEL MEETING

Statement by the Chairperson:

"I advise all present that tonight's meeting is being audio recorded for the purposes of providing a record of public comment at the meeting, supporting the democratic process, broadening knowledge and participation in community affairs, and demonstrating Council's commitment to openness and accountability. The recordings of the non-confidential parts of the meeting will be made available on Council's website once the Minutes have been finalised. All speakers are requested to ensure their comments are relevant to the issue at hand and to refrain from making personal comments or criticisms. No other persons are permitted to record the Meeting, unless specifically authorised by Council to do so."

APOLOGIES / LEAVE OF ABSENCE

POLITICAL DONATIONS DISCLOSURE

Statement by the Chairperson:

"In accordance with Section 10.4 of the Environmental Planning and Assessment Act 1979, any person or organisation who has made a relevant planning application or a submission in respect of a relevant planning application which is on tonight's agenda, and who has made a reportable political donation or gift to a Councillor or employee of the Council, must make a Political Donations Disclosure Statement."

If a Councillor or employee has received a reportable political donation or gift from a person or organisation who has made a relevant planning application or a submission in respect of a relevant planning application which is on tonight's agenda, they must declare a non-pecuniary conflict of interests to the meeting, disclose the nature of the interest and manage the conflict of interests in accordance with Council's Code of Conduct."

DECLARATIONS OF INTEREST

Clause 52 of Council's Code of Meeting Practice (Section 451 of the Local Government Act, 1993) requires that a councillor or a member of a Council committee who has a pecuniary interest in a matter which is before the Council or committee and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").

The Councillor or member of a Council committee must not be present at, or in sight of, the meeting of the Council or committee:

- (a) at any time during which the matter is being considered or discussed by the Council or committee.*
- (b) at any time during which the Council or committee is voting on any question in relation to the matter.*

Clause 51A of Council's Code of Meeting Practice provides that a Councillor, Council officer, or a member of a Council committee who has a non pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").

If the non-pecuniary interest is significant, the Councillor must:

- a) remove the source of conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official.*

OR

- b) have no involvement in the matter by absenting themselves from and not taking part in any debate or voting on the issue as if the provisions of Section 451(2) of the Act apply.*

If the non-pecuniary interest is less than significant, the Councillor must provide an explanation of why they consider that the interest does not require further action in the circumstances.

CONFIRMATION OF MINUTES

THAT the Minutes of the Local Planning Panel meeting held on 23 September, 2026 be confirmed; a copy having been distributed to all Councillors.

GENERAL BUSINESS

- *Items for which there is a Public Forum Speaker*
- *Balance of General Business items*

LOCAL PLANNING PANEL

Page Number 1

**Item 1 LPP23/26 DA/124/2026 - TORRENS TITLE SUBDIVISION OF ONE LOT INTO TWO -
19A DAY ROAD, CHELTENHAM**

RECOMMENDATION

THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, approve Development Application No. DA/124/2026 for alterations and additions to the existing dwelling and Torrens title subdivision of one lot into two at Lot 1 DP 1298219, No. 19A Day Road, Cheltenham subject to the conditions of consent in Schedule 1 of LPP Report No. LPP23/26.

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**Item 2 LPP24/26 DA/284/2026 - CONSTRUCTION OF A 110 PLACE CHILDCARE CENTRE
WITH BASEMENT PARKING - 37 & 39 EDWARD BENNETT DRIVE, CHERRYBROOK**

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/284/2026 for demolition of existing structures and construction of a 110 place childcare centre with basement parking at Lot 525 DP 260037 and Lot 526 DP 260037, No. 37 & 39 Edward Bennett Drive, Cherrybrook subject to the conditions of consent in Schedule 1 of LPP Report No. LPP24/26.

SUPPLEMENTARY AGENDA

1 DA/124/2026 - TORRENS TITLE SUBDIVISION OF ONE LOT INTO TWO - 19A DAY ROAD, CHELTENHAM

DA No:	DA/124/2026 (PAN-612932 - Lodged on 26 February 2026)
Description:	Alterations and additions to the existing dwelling and Torrens title subdivision of one lot into two
Property:	Lot 1 DP 1298219, No. 19A Day Road, Cheltenham
Applicant:	Wal Dobrow
Owner:	Jake William Thomas Dobrow & 19A Pty Limited
Estimated Value:	\$157,630
Ward:	C Ward
Submissions:	14
LPP Criteria:	10 or more unique submissions were received by way of objection
Author:	Elvin Keung, Senior Town Planner
COI Declaration:	No Council staff involved in the assessment of this application have declared a Conflict of Interest.

RECOMMENDATION

THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, approve Development Application No. DA/124/2026 for alterations and additions to the existing dwelling and Torrens title subdivision of one lot into two at Lot 1 DP 1298219, No. 19A Day Road, Cheltenham subject to the conditions of consent in Schedule 1 of LPP Report No. LPP23/26.

EXECUTIVE SUMMARY

- The application involves alterations and additions to the existing dwelling and Torrens title subdivision of one lot into two.
- The proposal complies with the minimum lot size development standard.
- A total of 14 submissions from 13 objectors have been received in respect of the application.
- The application is required to be determined by the Hornsby Council Local Planning Panel as 10 or more unique submissions were received by way of objection.
- It is recommended that the application be approved.

BACKGROUND

On 27 August 2025, the Hornsby Local Planning Panel approved DA/1407/2024 for demolition and Torrens title subdivision of one lot into four at No. 19A and 21 Day Road, Cheltenham. The accessway approved under DA/1407/2024 is shared with the subject application.

On 29 April 2026, a request for further information was sent to the applicant requiring submission of the following:

- Amended demolition plan
- Incorporating the construction of the accessway as part of this application
- Amended flood report
- Updated engineering plans
- Updated arborist report
- Amended plans to show alterations and additions to the existing dwelling house

On 10 June 2026, amended plans were submitted to address the above.

On 23 July 2026, a second request for information letter was sent to the applicant requesting additional flood data and owners consent information. On 30 July 2026, the owners consent information was provided.

On 1 September 2026, a third request for information was sent to the applicant requesting:

- Additional flooding information
- Accessway plans updated to reflect the design change condition in DA/1407/2024

On 21 September 2026, amended plans were submitted to address the above.

SITE

The 1,665m² battle-axe site is located on the north-western side of Day Road and contains a two storey brick dwelling with metal roof.

The site experiences an 11m fall over a distance of 60m from the western rear corner towards the eastern front corner. This results in a gradient of approximately 18%.

The site is not mapped as bush fire prone land. However, the site is partially mapped as flood prone, with the overland flow path passes through the access handle. The rest of the site is not flood affected.

The site is located within The Gullies Precinct of the Beecroft/Cheltenham Heritage Conversation Area (HCA). The site is partially mapped at the rear as containing the Blackbutt Gully Forest vegetation community.

The site is burdened by the following easements:

- (A) Right of carriageway
- (B) Easement to drain water
- (C) Easement for services
- (G) Right of footway
- (H) Easement to drain water
- (K) Right of carriageway & easement for electricity and telephone supply
- (L) Easement for drainage affecting the natural watercourse.

The site is benefited by the following easements:

- (D) Right of carriageway
- (E) Easement to drain water
- (F) Easement for services
- (G) Right of footway
- (M) Right of way

Two Sydney Water sewer lines run across the site, within the lot and the access handle.

PROPOSAL

The application proposes alterations and additions to the existing dwelling and Torrens title subdivision of one lot into two as detailed below.

The dwelling alterations and additions comprise:

- Partial demolition of the existing dwelling including the studio, double garage and first floor bedroom.
- Additions to the existing dwelling comprising a double garage and terrace on the ground floor, and an extension to the first floor deck, as well as associated works like stairs and retaining walls.

The subdivision works comprise:

- Proposed Lot 11 would have an area of 646.5m² (excluding the access handle) and would be accessed via the proposed driveway within the existing access handle.
- Proposed Lot 12 would have an area of 629m² (excluding the access handle) and would be accessed via the proposed driveway within the existing access handle and the Right of Access that burdens No. 21 Day Road.

A new driveway is proposed along the existing access handle and within a Right of Carriageway burdening part of No. 21 Day Road. Retaining walls are proposed along the northern side of the proposed driveway. This is the same driveway that was approved by DA/1407/2024 for the subdivision on No. 21 Day Road.

Stormwater from all proposed lots would be directed to the existing open stormwater channel.

One tree is proposed for removal. However, this is only required based on an indicative dwelling design. Therefore, no trees are approved to be removed as part of the subdivision as discussed in Section 3.1.1 of this report.

ASSESSMENT

The development application has been assessed having regard to the Sydney 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 Sydney Plan

The Sydney Plan has been prepared by the NSW State Government to guide land use planning decisions over the next 20 years (to 2046). 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 identified challenge for Hornsby Shire will be to provide 5,500 new completed homes by 2029 with further strategic supply targets to be identified to deliver 97,000 additional dwellings in the North District by 2036.

The proposed development would be consistent with the Sydney Plan, by creating an additional allotment to contribute to achieving the dwelling targets for the region.

2. STATUTORY CONTROLS

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

2.1 Hornsby Local Environmental Plan 2013

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

2.1.1 Zoning of Land and Permissibility

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

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

The proposed development is defined as 'dwelling' and residential 'subdivision' and is permissible in the R2 zone with Council's consent.

2.1.2 Minimum Lot Size

Clause 4.1 of the HLEP prescribes that the minimum subdivision Lot size is not to be less than shown for the land on the minimum Lot Size Map, which is 600m².

- Proposed Lot 11 would have an area of 1,036m² (646.5m² excluding the access handle).
- Proposed Lot 12 would have an area of 629m².

Both proposed lots would comply with the 600m² minimum lot size and are considered acceptable suitable for residential purposes.

2.1.3 Height of Buildings

Clause 4.3 of the HLEP provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 8.5m. The proposed additions to the dwelling house are below 8.5m and comply with this provision. The remainder of the proposal is for subdivision and associated works. Therefore, the proposal complies with this provision.

2.1.4 Heritage Conservation

Clause 5.10 of the HLEP sets out heritage conservation provisions for Hornsby Shire with the objective to conserve significant heritage and the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.

The subject property is located within the Gullies Precinct of the Beecroft-Cheltenham Heritage Conservation Area (HCA) listed under Schedule 5 of the HLEP.

The application proposes alterations and additions to a dwelling house and Torrens title subdivision of one lot into two. Council heritage assessment raised no objection to the works to the existing dwelling house including partial demolition as the existing dwelling is well setback from the street and the section of the dwelling being removed is not visible in the streetscape. The partial demolition would not have an impact on the heritage values of the HCA. The additions to the dwelling house would also not be visible in the streetscape and are acceptable from a heritage perspective.

The proposed subdivision would be similar to the existing battle-axe subdivision pattern found in the streetscape. It is also consistent with the previously approved subdivision on the adjoining property at No. 21 Day Road.

Indicative architectural plans have been provided for a future dwelling house on Lot 11 to inform the subdivision proposal. The detailed design of any future dwellings would be thoroughly assessed as part of a future development application.

It is considered that the proposed alterations and additions to the dwelling house and Torrens title subdivision of one lot into two would meet the objectives of Clause 5.10 of the HLEP and is considered acceptable on its merits.

2.1.5 Flood Planning

The site is not mapped as flood prone based on the latest Council mapping.

Nevertheless, the application is supported by a Flood Report prepared by Ibrahim Stormwater Consultants (November 2024) and a supplementary report (August 2026), both of which conclude that the proposed subdivision and future dwelling would have a negligible impact on overland flow behaviour and would not adversely affect downstream properties.

Council's engineering assessment concurs with the findings of the submitted flood report and recommends appropriate conditions as discussed in Section 4.1 of this report.

2.1.6 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 Bulk Earthworks Plan, within the Engineering Plans outlines that the proposed access handle would require earthworks. The earthworks were approved previously under DA/1407/2024 for the subdivision on the adjoining lot since both applications share the same access handle.

The proposed fill is limited to the driveway. Cut is required for the dwelling addition but is restricted to the building footprint. Further assessment against Clause 6.2 Earthworks of the HLEP is provided below:

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 proposed earthworks are required to provide the vehicular access handle and dwelling alterations and additions. The reconstruction of the existing driveway would not impact any drainage patterns. The dwelling additions are supported by a Flood Report and Stormwater Plan which demonstrate no adverse impact on drainage patterns. Appropriate conditions are recommended for stormwater and to ensure soil stability.
(b) the effect of the development on the likely future use or redevelopment of the land	The proposed earthworks are required to provide the vehicular access handle. The proposed earthworks would help facilitate future development on the subdivided lots.
(c) the quality of the fill or the soil to be excavated, or both	Appropriate conditions are recommended to ensure any fill imported to the site is Virgin Excavated Natural Material and classified by a suitably qualified suitably qualified environmental consultant.
(d) effect of the development on the existing and likely amenity of adjoining properties	The proposed earthworks are limited to the driveway and dwelling additions. The earthworks would have negligible amenity impacts to adjoining properties and are considered acceptable.
(e) the source of any fill material and the destination of any excavated material	Appropriate conditions are recommended to ensure any fill imported to the site is Virgin Excavated Natural Material and classified by a suitably qualified suitably qualified environmental consultant. A similar condition is recommended for any excavated material to be exported from the site.
(f) the likelihood of disturbing relics	Council has no record of any historical items or events of note on the subject site, of either Aboriginal or European Heritage. It is therefore considered that the proposed works are unlikely to disturb any relics.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area	The earthworks would not impact any existing waterways as the nearest waterway Byles Creek is located approximately 230m from the site. Notwithstanding appropriate sediment and erosion control measures are recommended as conditions of consent noting that the open stormwater channel does connect to Byles Creek.
(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.

For consistency with the approved DA/1407/2024, in conjunction with the site access constraints posed by the steep topography, battle-axe form of the site and the location of an open water drainage channel within the site, a condition is recommended requiring a Construction Management Plan (CMP) be approved by Council prior to the commencement of any works.

This CMP would limit the number of truck movements per day to minimise the potential amenity impacts to adjoining properties and the local road network.

Council's assessment of the proposed works and importation of fill concludes that the development is considered acceptable on its merits, subject to the recommended conditions.

2.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

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

2.2.1 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 HDCP 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 of the HDCP.

2.2.2 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.

2.3 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.

2.3.1 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.

2.4 Draft Environmental Planning Instrument

There are no current draft environmental planning instruments.

2.5 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.

2.6 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:

HDCP - Part 3.1 Dwelling Houses (Lot 12)

ITEM 1

Control	Proposal	Requirement	Complies
Site Area	629m ²	N/A	N/A
Building Height	<8.5m	8.5m	Yes
No. storeys	2	max. 2 + attic	Yes
Site Coverage	27%	50%	Yes
Floor Area	292m ²	max. 380m ²	Yes
Setbacks			
- Side (south-eastern)			
Ground floor	1.4m	900mm	Yes
First floor	1.4m	1.5m	No
- Side (south-western)			
Ground floor	Existing	900mm	Yes
First floor	Existing	1.5m	Yes
- Side (north-eastern)			
Ground floor	0m	900mm	No
First floor	Existing	1.5m	Yes
- Rear			
Ground floor	>3m	3m	Yes
First floor	>8m	8m	Yes
Landscaped Area (30% of lot size)	308m ²	min. 188.7m ²	Yes
Private Open Space			
- minimum area	>24m ²	24m ²	Yes
- minimum dimension	>3m	3m	Yes
Car Parking	2 spaces	2 spaces	Yes
HDCP - Part 6 Subdivision (Lot 12)			
Control	Proposal	Requirement	Complies
Lot Size	629m ²	600m ²	Yes
Minimum Lot Width	20m	15m	Yes

HDCP - Part 6 Subdivision (Lot 11)			
Control	Proposal	Requirement	Complies
Site Area	1,665m ²	N/A	N/A
Lot Size	645.5m ²	600m ²	Yes
Minimum Lot Width	20m	15m	Yes
Indicative Setbacks			
- Side (south-eastern)	>0.9m	0.9m	Yes
- Side (south-western)	>0.9m	0.9m	Yes
- Side (north-eastern)	0.9m	0.9m	Yes
- Rear (north-western)	3m	3m	Yes
Potential Landscaped Area	>30%	30%	Yes
Private Open Space			
- minimum area	>24m ²	24m ²	Yes
- minimum dimension	>3m	3m	Yes
Building Envelope	142m ²	200m ²	No

As detailed in the above table, the proposed development generally complies with the prescriptive measures within the HDCP with the exception of side setbacks for the existing dwelling and the indicative building envelope for proposed Lot 11. A brief discussion on compliance with relevant performance requirements is provided below and Part 1.3 General Controls are addressed in Section 3 of the report.

2.6.1 Setbacks

The desired outcomes of Part 3.1.2 Setbacks of the HDCP are to encourage “*setbacks that are compatible with adjacent development and complement the streetscape*” and “*setbacks that allow for canopy trees to be retained and planted along the front and rear property boundaries*”.

North-Eastern Side Setback

The desired outcomes are supported by the prescriptive measure that states the minimum side boundary setback for single storey elements is 900mm.

The additions to the existing dwelling house on proposed Lot 12 would have a minimum setback to the north-eastern side boundary of 0m. This is specifically due to the proposed stairs and retaining walls leading to the new garage and rear portion of the site. The HDCP allows for minor structures to encroach into the prescribed setbacks. The encroaching structures are minor elements which are necessary in response to the sloping topography. The proposed lot is at the rear of a multi-lot battle-axe subdivision with the encroachments facing towards the internal access handle. Therefore, the reduced setback would not adversely impact the streetscape or the amenity of the adjoining lots.

The proposed garage, which is the main structure of substantial bulk, is setback 5.5m from the north-eastern side boundary and is considered appropriate.

South-Eastern Side Setback

The desired outcomes are supported by the prescriptive measure that states that minimum side boundary setback for double storey elements is 1.5m.

The existing dwelling, following the proposed partial demolition would have a 1.4m setback to the south-eastern side boundary, created under the proposed subdivision. The proposed setback constitutes a minor variation of 100mm (7%). Sufficient separation is provided subject to the measures for privacy as outlined in Section 2.6.2 of this report.

As such, the proposed setbacks meet the desired outcomes of Part 3.1.2 of the HDCP and are considered acceptable.

2.6.2 Privacy

The desired outcome of Part 3.1.6 Privacy of the HDCP is to encourage *“development that is designed to provide reasonable privacy to adjacent properties”*.

This is supported by the prescriptive measure that states windows should have a privacy screen when certain criteria are met.

The south-eastern elevation of the existing dwelling contains a window to the first floor living room. This window is less than 3m from the boundary and would potentially enable overlooking into the adjoining Proposed Lot 11. Therefore, a design change condition is recommended requiring a privacy screen to be installed to the window to a height of 1.5m above the finished floor level or alternatively the window to be changed to a high-sill window.

The other window on the first floor is to a bathroom which is a non-habitable room and does not require a privacy screen.

Subject to conditions, the proposal meets the desired outcome of Part 3.1.6 of the HDCP and is considered acceptable.

2.6.3 Subdivision

The desired outcomes of Part 6.1.1 of the HDCP are to encourage subdivision design that:

- *provides usable allotments that relate to site conditions.*
- *provides for the retention of significant landscape features and respects site constraints including significant trees, remnant bushland, steep topography, watercourses, riparian land and stormwater overland flow paths, and bushfire hazard asset protection zones.*
- *provides for all necessary services and facilities, including any required extension or amplification to Council infrastructure.*

The subdivision layout in the vicinity of the development is irregular with no consistent pattern. It is noted that lots to the west are shallower than the subject site and are generally battle-axe configurations two lots deep. The lot configuration of sites to the northeast are more linear as a result of the side street Robecq Avenue.

The subdivision layout on the opposite side of Day Road include battle-axe allotments up to four lots deep (No. 30, 32, 32A and 32B Day Road).

It is generally considered that the proposed subdivision layout would not be inconsistent with the subdivision layout of the locality noting the irregular subdivision pattern.

Proposed Lot 11 is located on a constrained site with over 20% gradient and a grouping of trees. As detailed in Section 2.6.4 of this report, concept architectural plans have been provided which detail how an appropriately sized dwelling house can be located on the site whilst retaining existing landscape features including trees.

2.6.4 Residential Lands Subdivision

The desired outcomes of Part 6.2.1 Residential Lands Subdivision of the HDCP are to encourage subdivision design that *“maintains appropriately shaped Lots to accommodate a dwelling and associated development that is compatible with a low density residential environment”* and *“provides setbacks to developable areas that will: complement the streetscape, provide for landscaping, protect landscape features, and provide separation between existing and future dwellings.”*

The size of each of the proposed lots are in excess of the minimum lot size prescribed in the HLEP. The proposed lots are appropriately shaped to conform to the configuration of the site and the existing accessway upgrades. The proposed lots comply with the minimum lot width prescriptive measure.

Whilst the plans do not indicate the vacant lot can accommodate a 200m² indicative building envelope, the applicant provided concept architectural plans for proposed Lot 11 detailing how a dwelling house could be constructed on the constrained site. Proposed Lot 11 is constrained by the existing trees to be retained at the south-western end of the site. The indicative dwelling design allows a 230m², four-bedroom dwelling to be located on the subject site requiring only a single tree to be removed. Since this is only an indicative design, no trees are approved to be removed as part of this application as outlined in Section 3.1.1 of this report. An assessment of any required tree removal will be considered in a future application when proposed Lot 11 is developed, subject to Council's HLEP and HDCP.

It is generally considered that the development complies with the desired outcomes and prescriptive measures of Part 6.2.1 of the HDCP and is considered acceptable.

2.6.5 Vehicular Access and Parking

The desired outcomes of Part 6.4.1 Residential and Rural Lands Accessway Design of the HDCP encourages *“to ensure access along private accessways to all new Lots is simple, safe and direct,”* *“driveways should not be visually intrusive to the existing streetscape,”* and *“to limit the number of driveway crossings and additional dwellings with direct access to main roads to limit the cumulative impacts on traffic flows and safety.”*

This is supported by the prescriptive measures which states that the accessway width for four to six lots should be a minimum 4m wide comprising of a 3m carriageway width and a 1m landscaping verge.

The application proposes the demolition of an existing driveway and construction of a new driveway to service proposed Lots 11 and 12. This same access driveway was approved by DA/1407/2024 to service approved Lots 22, 23, 24 and No. 19 Day Road. Lot 21 approved by DA/1407/2024 would contain separate vehicular access to Day Road via an extended section of the vehicle crossing.

The proposed accessway would contain a split driveway at the front of the site which would allow a vehicle to enter the driveway on one side while a vehicle exits the driveway on the other side, which acts as a passing bay.

The driveway width at the front of the site is only 2.5m wide on both sides of the split driveway with a landscaped strip splitting the driveways.

To address this, DA/1407/2024 included a design change condition, requiring amended plans be submitted increasing the width of both split driveways to a minimum 3m wide to allow safe vehicle access. This would reduce the landscape strip to 1m wide which still complies with Council's requirements.

Plans incorporating this change have been submitted as part of this application which provides a 3m wide carriageway on both sides of the split. The existing power pole in the middle landscape strip has been marked to be relocated.

The remainder of the accessway up until proposed Lot 11 would be 4m wide and this width would be increased for the passing bays. This front portion of the accessway would service a total of 6 lots (proposed Lots 11 and 12, approved Lots 22, 23, 24 and 19 Day Road). The remainder of the accessway, which would only service three lots (proposed Lot 12 and approved Lots 23 and 24), has a width of 3.5m.

No objections are raised to this change as the purpose of the landscaping verge is to soften the visual impact of the driveway from the streetscape. Being approximately 75m from Day Road, it is generally considered that this would have no impact to the streetscape of Day Road. Furthermore, driveways servicing one to three lots are only required to have a landscape verge of 0.5m wide and therefore the proposed driveway would comply. In any case, the entire accessway would maintain a minimum 3m carriageway width.

As part of DA/1407/2024, a design change condition was included requiring the passing bay located between approved Lots 21 and 22 to be extended to 5.5m and the landscaping strip deleted in this section. This is to allow for a full 5.5m long passing bay with no obstruction from the landscape strip. Amended plans were submitted as part of this application in accordance with this design change condition and provides a suitable passing bay.

As outlined in the assessment of DA/1407/2024, it is generally considered a better planning outcome to have a compliant driveway width as opposed to a landscaping verge to provide safe vehicle access. Furthermore, this lack of landscaping verge for a length of 6m of the driveway is considered to have negligible impacts to the streetscape of Day Road.

The other matters relating to the accessway including the turning bay have been addressed in the approval of DA/1407/2024. The subject application and the approved DA/1407/2024 share the same accessway design. Other than described in this report, there are no changes to the approved accessway to facilitate the proposed subdivision.

A positive covenant is recommended requiring the future dwelling houses to be designed to allow for vehicles to enter and exit Lots 11 and 12 in a forward direction to ensure safe vehicle entry and egress. This would require a turning area within each lot to be provided with the design for the future dwelling house to ensure safe and direct vehicle access.

The development meets the desired outcomes and prescriptive measures of Part 6.4.1 Residential and Rural Lands Accessway Design of the HDCP and is considered acceptable, subject to conditions.

2.6.6 Heritage

Submissions have been received stating that the proposed development is not consistent with the Beecroft-Cheltenham Heritage Conservation Area (HCA).

As detailed in Section 2.1.4 of this report, the development is satisfactory with respect to Clause 5.10 Heritage Conservation of the HLEP.

The desired outcomes of Part 9.6.2 Demolition of the HDCP include provisions to retain the qualities of the HCA and positive elements in the streetscape. In general, the prescriptive measures require characteristic and compatible dwellings to be retained, and replacement buildings and landscaping should be sympathetic to the HCA character.

The application proposes the partial demolition of the existing dwelling. The existing dwelling is not a 'Sydney School' architect designed building and is not visible from the street. The partial demolition would not have an adverse impact on the precinct or conservation area.

Part 9.6.3 Subdivision of the HDCP prescribes the following:

"Desired Outcomes

- a) *Minimise allotment subdivision to retain the pattern and arrangement of the original spatial layout of Lots.*

"Prescriptive Measures

- a) *Lot boundary changes are generally not supported where the development pattern or early subdivision is integral to the heritage significance of the heritage conservation area.*
- b) *Subdivision should conserve the important characteristics of the subdivision pattern, allotment layout and width, streetscape character, natural landform, bush setting, landscape features, and other notable features of the significant period of development.*
- c) *Subdivision should allow for the ongoing interpretation of the original subdivision through the siting of built form and landscape design.*
- d) *A single driveway is preferred for joint right-of-way access to battle-axe allotments."*

The subdivision pattern in the streetscape is irregular and not consistent throughout Day Road with only a few large rectangular lots remaining (of which 21 Day Road has been approved for subdivision under DA/1407/2024) and battle-axe subdivisions resulting in two, three and four lots deep.

Therefore, the subdivision pattern in the locality is not consistent and is not an integral feature of this area within the Beecroft-Cheltenham HCA.

The application proposes a Right of Access to provide vehicle access to Lots 22, 23, 24 and 19A Day Road which would meet prescriptive measure (d). No trees are approved to be removed.

It is noted that the design of the future dwelling house on proposed Lot 11 would be subject to a future DA where the compatibility of the design in the HCA would be further assessed.

The proposed development meets the desired outcomes and prescriptive measures of Part 9.6 of the HDCP and is considered acceptable on its merits.

2.7 Section 7.11 Contributions Plans

Hornsby Shire Council Section 7.11 Contributions Plan 2020-2030 applies to the development as it would result in an additional one residential lot in lieu of the one existing lot. Accordingly, the requirement for a monetary Section 7.11 contribution is recommended as a condition of consent.

2.8 Housing and Productivity Contribution

The Housing and Productivity Contribution applies to the development as it would result in an additional one lot in lieu of the one existing lot. Accordingly, the requirement for a monetary Housing and Productivity contribution is recommended as a condition of consent.

2.9 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.

2.10 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 a consent authority in determining a development application, with the following matters being relevant to the proposal:

- If demolition of a building proposed - provisions of AS2601

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the Regs are not relevant to the proposal.

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 proposed development has recommended the removal of a single tree numbered T14 as detailed in the Arboricultural Impact Assessment prepared by Treeism Arboricultural Services dated July 2024. This is based solely on the indicative dwelling design for proposed Lot 11. In principle, no objections are raised to the removal of T14. However, since it is only an indicative dwelling design, no trees are required to be removed to enable the proposed subdivision. Similarly, the AIA states some pruning of trees may be required for the indicative dwelling design. However, this is only indicative and not necessary for the subdivision.

The design of a future dwelling on Lot 11 would be subject to a future development application where any proposed tree removal and pruning would be assessed in detail.

Submissions have been received stating that the arborist report does not address all trees that would be impacted by the works. During the assessment of the application, a supplementary Arboricultural Impact Assessment prepared by Advanced Arborist Reporting dated 9 June 2026 was submitted. It identifies a number of additional trees not included in the original AIA, mostly on the adjoining properties to the south and east.

Nevertheless, all trees identified are to be retained and are not impacted by the indicative dwelling design. Appropriate conditions are recommended in Schedule 1 of this report requiring these trees to be retained and protected.

3.1.2 Stormwater Management

Submissions have been received stating that the existing stormwater pipes are inadequate.

The proposed stormwater drainage plan indicates that all stormwater will be directed to the inter-allotment drainage system and then directed to Council's stormwater system which passes through the accessway.

A condition is recommended requiring a positive covenant for the future dwelling house on proposed Lot 11 to have an OSD system with 10 cubic metres of storage and a discharge rate of 8L/s to control the stormwater discharge into the stormwater channel.

Council's engineering assessment determined that the flow rates would be acceptable. Even when blockage scenarios are considered, the flood depth would not exceed 100mm and therefore, no restrictions are required.

Council's assessment against the relevant requirements of Part 1.3.1.2 Stormwater Management has raised no concerns with the proposed stormwater drainage plan, subject to the recommended conditions in Schedule 1 of this report.

3.1.3 Waste Management

Appropriate conditions are recommended to ensure waste is disposed of correctly. This includes measures for safe practice for handling asbestos waste.

The on-going waste management for the future dwellings on each lot would utilise the current weekly and bi-weekly bin services consistent with the surrounding residential properties.

3.2 Built Environment

3.2.1 Built Form

The development proposes the subdivision of land and alterations and additions to the dwelling house. The only physical works for the subdivision include construction of the driveway, retaining walls and stormwater infrastructure. Both the subdivision works and the works to the dwelling house have been considered in this report and are acceptable.

The design and construction of the future dwelling house on Lot 11 would be subject to further approvals which would assess the built form and environmental and amenity impacts to adjoining properties.

3.2.2 Traffic

A Traffic and Parking Impact Assessment prepared by Traffic & Safety Solutions dated 7 May 2024 has been submitted with the proposal which estimates that the proposed development would generate an additional one vehicle trip in the AM and PM peak period compared to the existing traffic generation of the site.

The report concludes that the traffic generated by the development:

- *Is very low, consistent with R2 zoning and will have minimal impact on existing traffic flows, intersection capacities or neighbourhood amenity.*
- *Will be readily able to enter and leave the site without delay.*

- *Will not present any unsatisfactory traffic safety or capacity issues on the surrounding road network.*

It is generally considered that the future dwelling on the proposed lot would be used for residential use and would result in a minimal increase in traffic generation on local roads and is consistent with the residential context in the locality.

Council concurs with the findings of the traffic and parking assessment report that the proposed subdivision would not result in unreasonable traffic impacts to the local road networks and is considered acceptable.

3.3 Social Impacts

The proposal would improve housing choice in the locality by providing a range of household types. This is consistent with Council's Housing Strategy which identifies the need to provide a mix of housing options to meet future demographic needs in Hornsby Shire.

The location of the development is in close proximity to Cheltenham Railway Station, commercial centre, recreational, health and education facilities for future residents.

3.4 Economic Impacts

The proposal would have a minor positive impact on the local economy in conjunction with other new low density residential development in the locality by generating an increase in demand for local services.

4. SITE SUITABILITY

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

4.1 Flooding

Submissions have been received stating that the development is not appropriate as the site is flood prone.

The application is supported by a Flood Report prepared by Ibrahim Stormwater Consultants dated August 2026. Nevertheless, the site is not considered flood prone in accordance with Council mapping.

The only area affected by overland flow is across the accessway which the Flood Report identifies as having an RL of 77.11. As approved under DA/1407/2024, the open stormwater channel has an RL above the 1% flood event and therefore the overland flow would be contained entirely within the stormwater channel.

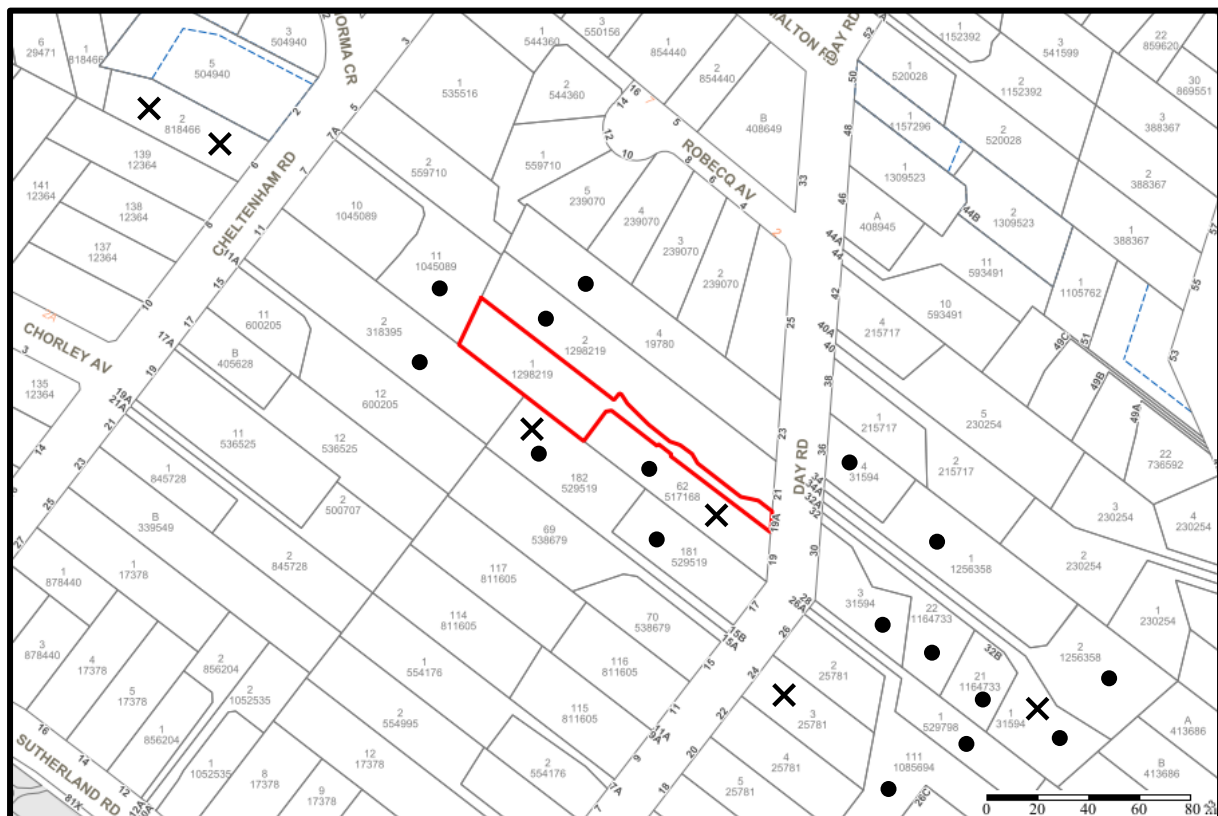
5. PUBLIC PARTICIPATION

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

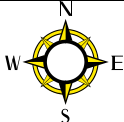
5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 7 March 2026 and 21 March 2026 in accordance with the Hornsby Community Engagement Plan. During this period, Council received 14 submissions. The map below illustrates

the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

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

A total of 14 submissions objected to the development, generally on the grounds that the development would result in:

- Development on flood prone land
- Increased stormwater runoff and overland flow affecting downstream properties
- Impacts on waterways
- Removal of trees and impacts on biodiversity
- Impacts on the heritage conservation area
- Overdevelopment of the site
- Inadequate access to the site
- Cumulative impacts with the approved subdivision on 21 Day Road
- Accuracy of the supporting documentation
- Uncertainty regarding future building works

- Non-compliance with development standards
- Construction impacts
- Sewer infrastructure insufficient
- Notification of application insufficient
- Bushfire risk

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

5.1.1 Overdevelopment of the site

Submissions have been received stating that this is an overdevelopment of the site.

In response to these submissions, as detailed in the body of this report, the proposed lots meet the minimum lot size development standard, generally comply with Council's DCP controls including flooding and driveway access with no trees approved to be removed.

5.1.2 Future bushfire risk

Submissions have been received raising concerns with the proximity of the site to bushfire prone land. In response to this submission, it is noted that the site is not mapped as bushfire prone, and no further assessment is required.

5.1.3 Notification of application

Submissions have been received raising concerns to the notification of the application.

In response to these submissions, it is noted that the development was notified to adjoining properties as shown on the map in Section 5.1 of this report.

The application was notified to adjoining and nearby landowners between 7 March 2026 and 21 March 2026 in accordance with the Hornsby Community Engagement Plan. Council received photo evidence that the notification sign was erected during the notification period.

Therefore, the application has been notified in accordance with the requirements of the Hornsby Community Engagement Plan and the *Environmental Planning and Assessment Act 1979*.

5.1.4 Cumulative impacts of development within Day Road

Submissions have been received which raised concern to the cumulative impacts of development occurring within Day Road particularly the subject site and approved subdivision at No. 21 Day Road.

In response to this submission, a condition is recommended requiring a Construction Management Plan be submitted for approval by Council prior to any works commencing on site. This CMP will detail truck movement and trips, sediment and erosion control measures, noise mitigation measures and traffic and parking measures to minimise impacts to the local road networks and nearby residents.

In response to submissions that this development should be assessed together with the subdivision on 21 Day Road, Council can only assess each Development Application as submitted. Since both developments share the same access driveway, Council has replicated conditions for the construction

of the accessway. Therefore, the responsibility of constructing the access driveway will be a matter for the applicants/owners depending on the timing of each development.

5.1.5 Insufficient sewer infrastructure

Submissions have been received raising concern to the insufficient sewer infrastructure in the locality and the indicative building envelope being located over existing sewer lines.

In response to these concerns, it is noted a condition is recommended in Schedule 1 of this report requiring the applicant to obtain a Section 73 Certificate from Sydney Water prior to the issue of the subdivision certificate.

A Section 73 certificate allows Sydney Water to determine the availability of water and wastewater services, which may require extensions, adjustments, or connections to their mains.

A similar condition would be imposed with any future dwelling house to ensure Sydney Water can determine if any upgrades or protection of the sewer main is required during the construction of the future dwelling house.

5.2 Public Agencies

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

6. THE PUBLIC INTEREST

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

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

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

CONCLUSION

The application proposes alterations and additions to the existing dwelling and Torrens title subdivision of one lot into two.

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

Council received 14 submissions during the public notification period. The matters raised have been addressed in the body of the report.

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

The reasons for this decision are:

- The proposed development generally complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 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.  Subdivision, Architectural and Engineering Plans

File Reference: DA/124/2026
Document Number: D09835793

SCHEDULE 1

GENERAL CONDITIONS

ITEM 1

Condition

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
Issue 2	Plan of Proposed Subdivision	Mitchell Keith Ayres	05/09/2023	
DA-01, Rev A	Site Plan	Fortey & Grant Architecture Pty Ltd	05/06/2026	
DA-02, Rev A	Ground Floor Plan	Fortey & Grant Architecture Pty Ltd	05/06/2026	
DA-03, Rev A	First Floor Plan	Fortey & Grant Architecture Pty Ltd	05/06/2026	
DA-03, Rev A	Roof Plan	Fortey & Grant Architecture Pty Ltd	05/06/2026	
DA-05, Rev A	North & South Elevations	Fortey & Grant Architecture Pty Ltd	05/06/2026	
DA-06, Rev A	East & West Elevations	Fortey & Grant Architecture Pty Ltd	05/06/2026	
DA-07, Rev A	Sections	Fortey & Grant Architecture Pty Ltd	05/06/2026	
DA-08, Rev A	Demolition Plans	Fortey & Grant Architecture Pty Ltd	05/06/2026	
C101 rev. AC	General Notes and Specifications	Crisp Consulting	11/04/2025	
C110 rev. AC	Demolition plan	Crisp Consulting	11/04/2025	
C150 rev. AC	Civil Works Plan Overview	Crisp Consulting	11/04/2025	
C151 rev. AC	Civil Works Plan - Sheet 01 of 02	Crisp Consulting	11/04/2025	
C152 rev. AC	Civil Works Plan - Sheet 02 of 02	Crisp Consulting	11/04/2025	
C153 rev. AC	Civil Grading Plan - Sheet 01 of 02	Crisp Consulting	11/04/2025	
C154 rev. AC	Civil Grading Plan - Sheet 02 of 02	Crisp Consulting	11/04/2025	
C160	Bulk Earthworks Plan	Crisp Consulting	11/04/2025	

Plan No.	Plan Title	Drawn by	Dated	Council Reference
rev. AC				
C201 rev. AC	Stormwater Management Plan	Crisp Consulting	11/04/2025	
C202 rev. AC	Stormwater Channel Plan	Crisp Consulting	11/04/2025	
C205 rev. AD	Driveway Long Section	Crisp Consulting	20/09/2026	
C206 rev. AC	Driveway Cross Sections Sheet 01 of 02	Crisp Consulting	11/04/2025	
C207 rev. AC	Driveway Cross Sections Sheet 02 of 02	Crisp Consulting	11/04/2025	
C220 rev. AC	Pavement Plan	Crisp Consulting	11/04/2025	
C225 rev. AD	Vehicle Crossing Setout Plan	Crisp Consulting	18/09/2026	
C310 rev. AC	Sediment & Erosion Control Plan & Details	Crisp Consulting	11/04/2025	

Supporting Documentation

Document Title	Prepared by	Dated	Council Reference
Arboricultural Impact Assessment	Treeism Arboricultural Services	July 2024	D09317657
Waste Management Plan	Wal Dobrow	07/10/2025	D09315423

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

2. Amendment of Plans

1. To comply with Councils requirement in terms of privacy, the approved plans are to be amended as follows:
 - a. The window to the first floor living room on the southern elevation as indicated in red on the South Elevation Plan DA-05, prepared by Fortey & Grant Architecture Pty Ltd, dated 5 June 2026 must have a privacy screen installed as follows:
 - i. A solid structure installed to a height of 1.5m from the finished floor level of the first floor with no individual openings more than 30mm wide and have a total of all openings less than 30% of the surface area of the screen, or
 - ii. Fixed frosted glazing installed to the entire window, which is to be fixed and not able to be opened, or
 - iii. The sill height of the window be increased to a minimum height of 1.5 metres above the finished floor level of the first floor.

2. To comply with Councils requirement in terms of driveway access, the plans prepared by Crisp Consulting must be amended to be consistent in terms of driveway width with Driveway Long Section C205 rev. AD and Vehicle Crossing Setout Plan C225 rev. AD.
3. A Tree Protection Plan must be prepared by a qualified AQF5 Level 5 arborist in accordance with the conditions of this consent.
4. These amended plans must be submitted with the application for the Subdivision Works Certificate or Construction Certificate, whichever comes first.

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

3. Removal of Trees

No consent is granted for the removal of any trees as part of this consent.

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.

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. A Subdivision Works Certificate is required to be approved by Council or a Principal Certifier prior to the commencement of any subdivision works under this consent.
3. A separate Subdivision Works Certificate must be obtained from Council for all works within the public road reserve under S138 of the Roads Act 1993.
4. A separate approval pursuant to Section 68 of the Local Government Act 1993 must be obtained from Council to connect to Council Drainage System.
5. The Construction Certificate / Subdivision Works 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. Retaining Walls

To ensure the stability of the site, structural details of all required retaining walls must be submitted with the application of the Subdivision Works Certificate and Construction Certificate.

Reason: To ensure the stability of the site and adjoining properties.

6. Section 7.11 Development Contributions

1. In accordance with Section 4.17(1) of the *Environmental Planning and Assessment Act 1979* and the Hornsby Shire Council Section 7.11 Development Contributions Plan 2020-2030, the following monetary contributions must be paid to Council to cater

for the increased demand for community infrastructure resulting from the development:

Description	Contribution (4)
Roads	\$1,456.60
Open Space and Recreation	\$11,413.95
Community Facilities	\$7,029.95
Plan Preparation and Administration	\$99.50
TOTAL	\$20,000

being for one additional lot in lieu of the one existing lot.

2. The value of this contribution is current as at 2 October 2026. If the contribution is not paid within the financial quarter that this condition was generated, the contribution payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 7.11 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

Where:

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

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

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

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

3. The monetary contribution must be paid to Council:
 - a. Prior to the issue of the Subdivision Certificate where the development is for subdivision; or
 - b. Prior to the issue of the first Construction Certificate where the development is for building work; or
 - c. Prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
 - d. Prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.

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

Note: In accordance with Ministerial Directions, the payment of contribution fees for development with a cost of works of over \$10 million can be deferred to prior to Occupation Certificate.

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

Note: To arrange a Payment Advice for the monetary contributions, please contact Council's Customer Service Team on 9847 6666.

Reason: To ensure development contributions are paid to address the increased demand for community infrastructure resulting from the approved development.

7. Housing and Productivity Contribution

Before the issue of a subdivision certificate, the housing and productivity contribution (HPC) set out in the table below is required to be made.

Housing and productivity contribution	Amount
Housing and productivity contribution (base component)	\$13,522.84
Total housing and productivity contribution	\$13,522.84

The HPC must be paid using the NSW planning portal.

At the time of payment, the amount of the HPC is to be adjusted in accordance with the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024* (HPC Order).

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the *Environmental Planning and Assessment Act 1979* agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the *Environmental Planning and Assessment Act 1979* to the development, or the HPC Order exempts the development from the contribution.

Reason: To require contributions towards the provision of regional infrastructure.

BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE AND/OR A CONSTRUCTION CERTIFICATE

Condition

8. Appointment of a Project Arborist

- 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.
- Details of the appointed project arborist must be submitted to Council and the PCA with the application for the construction certificate/subdivision works certificate.

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

9. Building Code of Australia (Related to Dwelling Alterations & Additions Only)

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).

10. Contract of Insurance (Residential Building Work) (Related to Dwelling Alterations & Additions Only)

Where residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, this contract of insurance must be in force before any building work authorised to be carried out by the consent commences.

Reason: Prescribed condition EP&A Regulation section 69(2).

11. Notification of Home Building Act 1989 Requirements (Related to Dwelling Alterations & Additions Only)

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifier for the development to which the work relates (not being Council) has given Council written notice of the following information:

1. In the case of work for which a principal contractor is required to be appointed:
 - a. The name and licence number of the principal contractor; and
 - b. The name of the insurer by which the work is insured under Part 6 of that Act.
2. In the case of work to be done by an owner-builder:
 - a. The name of the owner-builder; and
 - b. If the owner-builder is required to hold an owner-builder's permit under that Act, the number of the owner-builder's permit.

Note: If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being Council) has given Council written notification of the updated information.

Reason: Prescribed condition EP&A Regulation section 71(2) and (3).

12. Sydney Water Building Plan Approval (Related to Dwelling Alterations & Additions Only)

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.

13. Stormwater Drainage (Related to Dwelling Alterations & Additions Only)

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

1. Connected to existing inter-allotment drainage system.
2. The stormwater drainage system must be designed by a qualified hydraulic engineer.

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

14. Electric Vehicle (EV) Ready Connections (Related to Dwelling Alterations & Additions Only)

Prior to the issue of the relevant Construction Certificate, the following must be demonstrated to the satisfaction of the Principal Certifier:

1. The garage must be provided with a private Electric Vehicle (EV) connection.
2. All EV charging infrastructure is to comply with the applicable Electric Vehicle safety and energy consumption data collection requirements of the National Construction Code.

Note: Private EV connection is the provision of a minimum 15A circuit and power point to enable easy future EV connection in the garage connected to the main switch board.

Reason: To encourage and support the use of electric vehicles.

15. Utility Services (Related to Demolition & Subdivision Only)

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

1. Ausgrid (formerly Energy Australia) - a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.
2. NBN - a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.

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

16. Identification of Survey Marks (Related to Demolition & Subdivision Only)

A registered surveyor must identify all survey marks in the vicinity of the proposed development. Any survey marks required to be removed or displaced as a result of the proposed development shall be undertaken by a registered surveyor in accordance with Section 24 (1) of the *Surveying and Spatial Information Act 2002* and following the Surveyor General's Directions No.11 Preservation of Survey Infrastructure.

Reason: To identify and protect the State's survey infrastructure.

17. Stormwater Drainage (Related to Demolition & Subdivision Only)

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) and the following requirements:

1. Connected to an existing Council piped drainage system with the following requirements:
 - a. A separate Application must be made to Council for 'Approval to Connect Stormwater Drainage Outlet to Council's System' with all fees paid, prior to connecting to Council's drainage system.
 - b. The connection to Council's drainage pit or pipeline in accordance with Councils Design Standard Drawing No. 6 must be inspected by a Council Engineer from Council's Planning Division.

Note: An inspection booking can be made by calling Council on 9847 6760 quoting the Application reference number commencing SD
 - c. New Class C 900x450 grated inlet pit and 1.8m lintel to be constructed between Ch 30 - 34 with slotted kerb positioned at sag point Ch 35 acting as a weir.
 - d. Where public assets and utilities are impacted by proposed works, the Applicant shall relocate or reconstruct the asset or utility in accordance with the relevant standard at the Applicant's cost.
 - e. Prior to the issue of an Occupation Certificate a Compliance Certificate must be obtained from Council for the connection to Council's drainage system.
2. Pier and beam method construction adjacent to easements to the depth of the invert of proposed and existing pipes.

Note: A certificate from a chartered civil engineer together with a works as executed design plan must be submitted to the Principal Certifier to demonstrate the satisfaction of this condition.
3. An inter-allotment stormwater drainage system to service the proposed subdivision with pits being cast in situ or pre cast concrete pits being used.
4. The roof and stormwater drainage system from the existing dwelling to be connected to the proposed inter-allotment drainage system.

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

18. Internal Driveway/Vehicular Areas (Related to Demolition & Subdivision Only)

The driveway and parking areas on site must be designed, and a Construction Certificate issued in accordance with Australian Standards AS2890.1, AS3727 and the following requirements:

1. Design levels at the front boundary shall be obtained from Council by lodging an "Application for Boundary Levels" to be incorporated in the driveway longitudinal sections.
2. The driveway be a rigid pavement.

3. The driveway pavement be a minimum 3 metres wide, 0.15 metres thick reinforced concrete with SL72 steel reinforcing fabric and a 0.15 metre sub-base.
4. Design and construct thicken pavement with 200mm 2 x SL82 (Ch 30 - 40) over existing 1200mm RCP.
5. The pavement has a kerb to one side and a one-way cross fall with a minimum gradient of 2 percent and a lintel and pit provided at the low point.
6. Retaining walls required to support the carriageway and the compaction of all fill batters to be in accordance with the requirements of a chartered structural engineer.
7. The provision of safety rails where there is a level difference more than 0.3 metres and a 1:4 batter cannot be achieved.
8. Finished levels of the driveway must match into existing pavement of Lot 62 DP517168 and Lot 1 DP1298219.
9. Planting of landscaping strips 0.5 metres wide (Ch 80 - 110) & 1 metres wide (Ch 5 - 30, Ch 40 - 80) along one side of the length of the driveway.
10. A common turning area over Lot 4 of approved DA/1407/2024 to service the proposed subdivision in accordance with Australian Standards AS2890.1 to ensure vehicles can enter and leave the site in a forward direction. A right of access shall be created over the turning area to ensure access is maintained at all times.
11. The passing bays at Ch 0 - 15, 35 - 50, 60 - 75 shall have minimum width of 5.5m, depth of 6m and transition of 4m.
12. Longitudinal sections along both sides of the access driveway shall be submitted to the Principal Certifier in accordance with the relevant sections of AS 2890.1. The maximum grade shall not exceed 1 in 4 (25%) with the maximum changes of grade of 1 in 8 (12.5%) for summit grades and 1 in 6.7 (15%) for sag grades. Any transition grades shall have a minimum length of 2 metres. The longitudinal sections shall incorporate the design levels obtained by Council.

Reason: To provide safe vehicle and pedestrian access.

19. Structural Design (Related to Demolition & Subdivision Only)

All structural details must be designed by a Chartered Structural Engineer of the Institution of Engineers Australia with structural details to be submitted with the application of the Subdivision Works Certificate.

Reason: To ensure compliance with structural details required.

20. Road Opening Permit (Related to Demolition & Subdivision Only)

A Road Opening Permit shall be obtained from the Council to permit a person to dig into Council assets, such as roads, footpaths and nature strips. The fees payable for the restoration of any public asset damaged to be repaired by Council shall be at the applicant's full expense.

Note: The Road Opening Permit must be applied for via Council's Online Services Portal at: <https://www.hornsby.nsw.gov.au/property/build/apply-for-a-permit/road-openings>

Reason: To ensure public infrastructure and property is maintained.

21. Construction Management Plan (Related to Demolition & Subdivision Only)

A Construction Management Plan (CMP) must be prepared by a suitably qualified consultant in consultation with a qualified traffic engineer and approved by Council's Compliance Team via Council's Online Services Portal prior to issue of a Construction Certificate and before commencement of any works.

The CMP assists with the protection of the public, the environment, and Council's assets during all stages of construction works and must include the following:

1. Description of the Works
 - a. A general description of the scope of works.
 - b. Details of the extent of earthworks including quantities of excavated and imported material to be transported to and from the site.
 - c. Details of any staging of works.
2. Construction Traffic and Management
 - a. The anticipated number and frequency of truck movements per day over the duration of the project (i.e. throughout demolition, earthworks, and construction phases) for fill importation and exportation. The number of trucks should correlate to the volume of fill material to be imported to/exported from the site.
 - b. The vehicle traffic routes to and from the site, including any queuing locations. The vehicle routes should be identified on a plan attached to the CMP.
 - c. Size and types of construction vehicles to be used for importation and exportation of fill throughout the stages of works.
 - d. Swept path analysis for ingress and egress of the site for all stages of works.
 - e. Any required road closures/openings, work zones, crane permits, road occupancy licences and traffic control.
 - f. Management measures to be implemented to minimise disruption to, and maintain the safety, of all road users.
3. Pedestrian Management
 - a. Potential impacts on pedestrian movements. This includes consideration of locations or times where footpaths are heavily trafficked (e.g. school arrival and departure; commuter peaks).
 - b. Management measures to be implemented to minimise disruptions to pedestrians and maintain safety.
4. Car Parking
 - a. Impacts on on-street parking (e.g. use of work zones, construction access implications).
 - b. Details of construction worker parking. Where limited car parking is available on site or nearby, details of alternative transport arrangements must be provided.

5. Tree Management and Protection
 - a. Trees to be removed and retained on site consistent with the conditions of this consent, including tree protection measures in accordance with the approved Arboricultural Impact Assessment.
6. Stormwater Management
 - a. Details of stormwater management and disposal during excavation and construction, consistent with other lodged Plans.
 - b. Identification of existing drainage channels.
 - c. Sediment and erosion control measures to be implemented in accordance with the publication, Managing Urban Stormwater: Soils and Construction - Volume 1 (4th Edition) (Landcom, 2004).
7. Noise and Vibration
 - a. Details of mitigation measures to minimise noise and vibration impacts during rock breaking and/or rock sawing.
8. Site Plan
 - a. A site plan which identifies the following information at each stage of the development:
 - i. Existing and proposed buildings.
 - ii. Site boundaries.
 - iii. Extent of proposed earthworks (i.e. excavation and fill importation locations, and cut and fill locations).
 - iv. Existing trees and vegetation to be removed and retained and tree protection measures (consistent with the approved Arboricultural Impact Assessment and conditions of consent).
 - v. Vehicle access and egress.
 - vi. On-site vehicle parking areas.
 - vii. Proposed hard-stand areas for loading and unloading materials, including the location of cranes and concrete pumps.
 - viii. Location of material storage on-site, stockpiles, site sheds, hoardings, waste storage.
 - ix. Location of sediment control measures.

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: 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.

BEFORE SUBDIVISION AND BUILDING WORK COMMENCES

Condition

ITEM 1

22. 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).

23. 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:
 - a. Could cause a danger, obstruction, or inconvenience to pedestrian or vehicular traffic.
 - b. Could cause damage to adjoining lands by falling objects; and/or
 - c. Involve the enclosure of a public place or part of a public place; and/or
 - d. Have been identified as requiring a temporary hoarding, fence, or awning within the Council approved Construction Management Plan (CMP); 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.

24. 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.
 - a. Each toilet must:
 - b. Be a standard flushing toilet connected to a public sewer; or
 - c. Be a temporary chemical closet approved under the *Local Government Act 1993*; or
 - d. Have an on-site effluent disposal system approved under the *Local Government Act 1993*.

Reason: To ensure adequate toilet facilities are provided.

25. 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.

26. Installation of Tree Protection Measures

1. Trees to be retained and numbered T1 through to T27 as identified on the Tree Location Plan (Appendix 5, page 30 & 31) in the Arboricultural Impact Assessment

prepared by Treeism Arboricultural Services dated July 2024 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 under condition 2(3) of this consent.
 - b. For the duration of construction works, in accordance with Tree Protection Plan prepared under condition 2(3) of this consent.
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. The installation of all required tree protection fencing must have a TPZ radius as listed in the Table below:

Tree number	TPZ radius from centre of tree
2-9 and 11-18	Refer to Section 3.2 of the Arboricultural Impact Assessment prepared by Treeism Arboriculture Service dated July 2024 (page 6).

5. Tree crown protection measures are required and must be installed by the AQF 5 project arborist.
6. The circumference of the trunk(s) must be wrapped in hessian material to provide cushioning for the installation of timber planks.
7. Timber planks (50 x100mm) must be spaced at 100mm intervals and must be attached using adjustable ratchet straps.
8. All tree protection zones must have a layer of wood-chip mulch at a depth of between 150mm and 300mm.
9. Where wood-chip mulch is permitted by Council instead of tree protection fencing within the tree protection zones, the woodchip must be covered with a layer of geotextile fabric and rumble boards.

Reason: To protect trees during construction.

27. 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.

28. Asbestos Removal Signage (Related to Demolition & Subdivision Only)

Before demolition or remediation work commences involving the removal of asbestos, a standard commercially manufactured sign containing the words 'DANGER: Asbestos removal in progress' (measuring not less than 400mm x 300mm) must be erected in a prominent position at the entry point/s of the site and maintained for the entire duration of the removal of the asbestos.

Reason: To alert the public to any danger arising from the removal of asbestos.

29. Notice of Commencement for Demolition (Related to Demolition & Subdivision Only)

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.

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

DURING SUBDIVISION AND BUILDING WORK

Condition

30. 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.

31. 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.

32. 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.

33. 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.

34. 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.

35. Soil Management (Excavation and Fill)

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 Part 1: Classifying Waste 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 dockets 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 and Council upon request.
3. All fill material imported to the site is to be:
4. Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997, or
 - a. A material identified as being subject to a resource recovery exemption by the NSW EPA and used and/or applied in accordance with the conditions of the resource recovery exemption, or
 - b. A combination of the above two materials.
5. Prior to fill material being imported to the site, a Waste Classification Certificate is to be obtained from a suitably qualified environmental consultant confirming any fill material imported to the site is in accordance with (c). The certificate must be provided to the person(s) responsible for receiving and/or applying the fill material on site before the material is imported and made available to Council at its request.

Reason: To ensure soil removed from the site is appropriately disposed of and soil imported to the site is not contaminated and is safe for future occupants.

36. 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.

37. Maintenance of Public Footpaths

1. Public footpaths must be maintained for the duration of works to ensure they are free of trip hazards, displacements, breaks or debris to enable pedestrians to travel along the footpath safely.
2. 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 maintain safe pedestrian movement.

38. 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.

39. 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 in accordance with this consent.

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

40. Maintaining Tree Protection Measures

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

Reason: To protect trees during construction.

41. 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. The new driveway must be constructed using the following process:
 - a. To minimise soil compaction the proposed driveway must be built on or above grade using sensitive construction techniques in the form of piers or screw pilings.
 - b. To minimise soil compaction all imported material in the vicinity of the replacement driveway must be distributed by hand.

3. No changes of grade within the Tree Protection Zone of trees to be retained on the approved plans, are permitted.
4. To minimise impacts within the Tree Protection Zone (TPZ) of trees to be retained on the approved plans, 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.

42. 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.

43. 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).

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

44. De-watering of Excavated Sites

Water that accumulates within an excavation must be removed and disposed of in a manner that does not result in the pollution of waters, nuisance to neighbouring properties, or damage to neighbouring land and/or property.

Reason: To document the safe removal of water during work to protect the public and the surrounding environment.

45. 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.

46. 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.

47. 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.

48. Survey Report (Related to Dwelling Alterations & Additions Only)

A report(s) must be prepared by a registered surveyor and submitted to the Principal Certifier:

1. Prior to the pouring of concrete at each level of the building certifying that:
 - a. The building, retaining walls and the like have been correctly positioned on the site; and
 - b. The finished floor level(s) are in accordance with the approved plans.

Reason: To ensure buildings are positioned in the approved location and at the correct height.

49. Demolition (Related to Demolition & Subdivision Only)

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.

50. Handling of Asbestos (Related to Demolition & Subdivision Only)

While demolition or remediation work is being carried out, any work involving the removal of asbestos must comply with the following requirements:

1. Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling, and disposal of any asbestos material;
2. Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and
3. Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m² or more of asbestos sheeting must be registered with the EPA on-line reporting tool WasteLocate.

Reason: To ensure that the removal of asbestos is undertaken safely and professionally.

51. Compliance with Construction Management Plan (Related to Demolition & Subdivision Only)

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.

52. Vehicular Crossing (Related to Demolition & Subdivision Only)

A separate application under the *Roads Act 1993* must be submitted to Council for the installation of a new vehicular crossing and the removal of the redundant crossing. The vehicular crossing must be constructed in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and the following requirements:

1. Design levels at the front boundary shall be obtained from Council by lodging an "Application for Boundary Levels" to be incorporated in the driveway longitudinal sections.
2. Any redundant crossings must be replaced with integral kerb and gutter.
3. The footway area must be restored by turfing.
4. The existing road pavement to be saw cut a minimum of 600 mm from the existing edge of the bitumen and reconstructed.
5. The submission of a compaction certificate from a geotechnical engineer for any fill within road reserves, and all road sub-grade and road pavement materials.

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

Reason: To provide safe vehicle and pedestrian access.

BEFORE ISSUE OF A SUBDIVISION CERTIFICATE AND/OR AN OCCUPATION CERTIFICATE

Condition

ITEM 1

53. 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.

54. Asbestos Clearance Certificate

Should any asbestos be encountered during demolition or construction works, a licenced asbestos assessor is required to provide a Clearance Certificate to the Principal Certifier prior to the issue of a Subdivision Certificate and Occupation Certificate, certifying that the asbestos has been removed and appropriately disposed of, and the site is now suitable for its approved use.

Reason: To ensure the appropriate removal and disposal of contaminated materials and the site is suitable for its approved use.

55. 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 in accordance with AUS-SPEC Specifications. Rectification works must be undertaken prior to the issue of a Subdivision Certificate and Occupation Certificate, or sooner, as directed by Council.

Reason: To ensure public infrastructure and property is maintained.

56. Retaining Walls

All retaining walls must be constructed as part of the development and prior to the issue of a Subdivision Certificate and Occupation Certificate.

Reason: To ensure the stability of the site and adjoining land.

57. Submission of Excavated Material Tipping Dockets to Principal Certifier

Tipping dockets 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 a Subdivision Certificate and Occupation Certificate.

Reason: To confirm appropriate disposal of excavated material.

58. Sydney Water - Section 73 Compliance Certificate (Related to Demolition & Subdivision Only)

1. A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. The Sydney Water assessment will determine the availability of water and wastewater services, which may require extensions, adjustments, or connections to their mains. Sydney Water recommends that an early application for the certificate be made, as there may be assets to be built and this can take some time.
2. A Section 73 Compliance Certificate must be obtained from Sydney Water and submitted to the Principal Certifier before an Occupation Certificate or Subdivision Certificate will be issued.
3. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Note: Go to the [Sydney Water website](#) or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

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

59. House Numbering (Related to Demolition & Subdivision Only)

The house numbering for this subdivision shall be:

Lot	Street Number	Street Name	Street Type	Locality
Lot 11	19B	Day	Road	Cheltenham
Lot 12	19A	Day	Road	Cheltenham

Reason: To maintain property numbering in accordance with Australian Standards.

60. Creation of Easements (Related to Demolition & Subdivision Only)

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

1. A right of access and easement for services over the access corridor.
2. An inter-allotment drainage easement(s) over each of the burdened lots.
3. The creation of a 'Positive Covenant' over the proposed Lot 11 requiring that any future development is to provide an on-site detention system. The on-site detention system is to have a storage capacity of 10 cubic metres and a maximum discharge of 8 litres per second into Council's drainage system in accordance with Council's prescribed wording.
4. 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.

5. An easement for letterboxes shall be created over Lot 11 benefiting Lot 12. The 88b instrument shall be worded to reflect the obligations and responsibilities of the benefiting and burdening parties.

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.

61. Landscaping of Site (Related to Demolition & Subdivision Only)

All pervious areas of the site and the road reserve adjoining the site must be appropriately landscaped with suitable (preferably indigenous) turf, trees, and shrubs to complement the development and prevent erosion of soil.

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

Reason: To enhance the environmental and visual qualities of the development.

62. Works as Executed Plan (Related to Demolition & Subdivision Only)

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed road pavement, kerb & gutter, public drainage systems, driveways, and on-site detention system. The plan(s) must be accompanied by a certificate from a registered surveyor certifying that all pipelines and associated structures lie wholly within any relevant easements.

Reason: To ensure infrastructure is constructed and positioned in the approved location.

63. Subdivision Certificate Application (Related to Demolition & Subdivision Only)

A Subdivision Certificate Application is required to be lodged with Council, which is to include a completed Subdivision Certificate form and checklist, a final plan of subdivision prepared in accordance with the requirements of the *Conveyancing Act 1919* and the following information:

1. A surveyor's certificate certifying that all structures within the subject land comply with the development consent in regard to the setbacks from the new boundaries.
2. A surveyor's certificate certifying that all services, drainage lines or access are located wholly within the property boundaries. Where services encroach over the new boundaries, easements are to be created.
3. Certification that the requirements of relevant utility authorities have been met.
4. A surveyor's certificate certifying finished ground levels are in accordance with the approved plans.

Note: The fee payable is to be in accordance with Council's fees and charges.

Note: Council will not issue a Subdivision Certificate until all conditions of the development consent have been completed.

Note: At the present time Hornsby Shire Council is the only authority that can be appointed as a PC for subdivision works within the Shire.

Reason: Statutory requirement of the Conveyancing Act 1919.

64. Demolition of Structures (Related to Demolition & Subdivision Only)

Any structure that traverses the proposed allotment boundary/ies shall be demolished prior to the release of the subdivision certificate.

Reason: To ensure structures are located within the property boundary.

65. Construction of Dwelling Alterations & Additions (Related to Demolition & Subdivision Only)

The approved alterations and additions to the dwelling house must be completed prior to the release of the subdivision certificate.

Reason: To ensure all lots are provided with the required car parking.

66. Preservation of Survey Marks (Related to Demolition & Subdivision Only)

A certificate by a Registered Surveyor must be submitted to the Principal Certifier, certifying that there has been no removal, damage, destruction, displacement or defacing of the existing survey marks in the vicinity of the proposed development or otherwise the re-establishment of damaged, removed, or displaced survey marks has been undertaken in accordance with the Surveyor General's Direction No.11 Preservation of Survey Infrastructure.

Reason: To protect the State's survey infrastructure.

67. Construction of Engineering Works (Related to Demolition & Subdivision Only)

All engineering works identified in this consent are to be completed, especially the driveway must be constructed for the full length from chainage 0 - 146.1 and a Compliance Certificate issued prior to the release of the Subdivision Certificate.

Reason: To ensure engineering works are completed.

- END OF CONDITIONS -

2 DA/284/2026 - CONSTRUCTION OF A 110 PLACE CHILDCARE CENTRE WITH BASEMENT PARKING - 37 & 39 EDWARD BENNETT DRIVE, CHERRYBROOK

DA No:	DA/284/2026 (PAN-624685 - Lodged on 27 March 2026)
Description:	Demolition of existing structures and construction of a 110 place childcare centre with basement parking
Property:	Lot 525 DP 260037 and Lot 526 DP 260037, No. 37 & 39 Edward Bennett Drive, Cherrybrook
Applicant:	Artmade Architectural Pty Ltd
Owner:	Mr Ting An, Ms Chao Zhang, Chao Zhang and Ting An
Estimated Value:	\$4,973,281
Ward:	C Ward
Clause 4.6 Request:	Clause 4.3 Height of buildings development standard
Submissions:	15
LPP Criteria:	10 or more unique submissions were received by way of objection
Author:	Elvin Keung, Senior Town Planner
COI Declaration:	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/284/2026 for demolition of existing structures and construction of a 110 place childcare centre with basement parking at Lot 525 DP 260037 and Lot 526 DP 260037, No. 37 & 39 Edward Bennett Drive, Cherrybrook subject to the conditions of consent in Schedule 1 of LPP Report No. LPP24/26.

executive summary

- The application involves demolition and construction of a 110 place centre-based child care centre.
- The proposal does not comply with the Hornsby Local Environmental Plan 2013. The applicant has made a submission in accordance with Clause 4.6 'Exceptions to development standards' to contravene Clause 4.3 Height of buildings development standard of the Hornsby Local Environmental Plan 2013. The submission is considered well founded and is supported.
- The proposal generally complies with the Hornsby Development Control Plan 2024, State Environmental Planning Policy (Transport and Infrastructure) 2021 and the Child Care Planning Guideline with respect to landscaping, privacy, noise, traffic and safety, scale, site suitability, contamination, setbacks, tree preservation and sunlight access.
- A total of 15 submissions have been received during the notification period in respect of the application.
- The application is required to be determined by the Hornsby Council Local Planning Panel as 10 or more unique submissions were received by way of objection.
- It is recommended that the application be approved.

BACKGROUND

On 5 June 2026, a request for information letter was sent to the applicant requesting:

- Reduction in height.
- Increased side setback on the north-western side to comply.
- Amended materials and finishes schedule which responds sympathetically to the R2 Low Density Residential area.
- Amended Plan of Management to ensure an equitable and enforceable for indoor and outdoor play times.
- Amended acoustic report.
- Amended waste management plan to utilise correct waste generation rates.
- Amended traffic report incorporating traffic data.
- Incorporate crest in driveway design for overland flow path.
- Amended stormwater plans with OSD requirements.
- Demonstrated compliance with Food Standards Code.
- Detailed Site Investigation.

On 26 June 2026 and 6 July 2026, amended documents were submitted to address the majority of the above items.

On 21 August 2026, a second request for information letter was sent to the applicant requesting:

- Amended driveway plans to meet the maximum grade of 1:6.5.
- Consideration of basement clearance heights.

On 31 August 2026, amended documents were submitted to address the remaining outstanding matters.

SITE

The 1,684.2m² site, comprised of two lots, is located on the northern side of the intersection between Edward Bennett Drive and Paxton Crescent. It contains 2x two storey brick dwelling houses with tile roofs, 2x in-ground swimming pools and a detached shed.

The site experiences a 2.7m fall over a distance of 43m from the western rear boundary towards the eastern front boundary. This results in a gradient of approximately 6%.

The site is not mapped as bush fire prone land.

The site is not mapped as a flood control lot. However, it is partially affected by the 1% overland flow at the front southern corner.

The site is not burdened by any easements. However, a Sydney Water sewer line runs across the front of the site near the boundary.

The site does not contain any ecologically endangered species.

PROPOSAL

The application proposes demolition of the existing dwelling houses and ancillary structures and construction of a 110 place centre-based child care centre as detailed below.

The basement would comprise: 29x car parking spaces, a bin room, a lobby, a laundry and a services room.

The ground floor would comprise three separate buildings:

- The first building would comprise: a foyer, a staff room, an office/meeting room, a kitchen and a pantry.
- The second building would comprise: 2 x playroom, 2 x cot room, storage, junior toilet room, and an accessible toilet.
- The third building would comprise: 2 x playroom, a kid activity room, a junior toilet room, and storage.
- The ground floor contains outdoor play areas.

The first floor levels for each of the three buildings would comprise:

- The first building: a playroom, a lobby, a junior toilet room and an accessible toilet.
- The second building: a playroom and a junior toilet room.
- The third building: a playroom and a junior toilet room.
- The first floor contains outdoor play areas.

The proposed operating hours of the child care centre are Monday to Friday, 7am to 6pm. The centre would be closed on weekends and Public Holidays.

The 110 place child care centre would comprise:

- 0-2 year old: 20 children

- 2-3 year old: 40 children
- 3-5 year old: 50 children

A minimum of 18 child care educators will be required based on the maximum capacity of the centre.

No signage is proposed as part of this development.

No trees are proposed to be removed.

ASSESSMENT

The development application has been assessed having regard to the Sydney 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 Sydney Plan

The Sydney Plan has been prepared by the NSW State Government to guide land use planning decisions over the next 20 years (to 2046). 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.

Between 2016-2036, the number of infants aged 0-4 years is projected to increase by 85,000 and there are projected to be 333,000 more children and young people aged 5-19 years. The identified challenge for Hornsby Shire would be to provide additional infrastructure for students and young people.

The proposed child care centre would be consistent with the objectives of the plan by providing 110 child care places to support a growing population.

2. STATUTORY CONTROLS

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

2.1 Hornsby Local Environmental Plan 2013

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

2.1.1 Zoning of Land and Permissibility

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

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

The proposed development is defined as 'centre-based child care facility' and is permissible in the R2 zone with Council's consent.

2.1.2 Height of Buildings

Clause 4.3 of the HLEP provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of buildings Map. The maximum permissible height for the subject site is 8.5m. The proposal has a maximum height of 8.77m which represents a contravention of 0.27m (3.2%) and does not comply with this provision.

The application is supported by a written request pursuant to Clause 4.6 of the HLEP to contravene the maximum height of building development standard, which is discussed below in Section 2.1.3 of this report.

2.1.3 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 would hinder the attainment of the objectives of the zone.

The proposal exceeds the Clause 4.3 Height of buildings development standard.

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 is satisfied that a written request from the applicant that seeks to justify the contravention to the development standard has demonstrated that:

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

2.1.3.1 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 Planning Bricks, dated 26 June 2026 provides a detailed assessment of the proposal with respect to the development standard sought to be contravened. The request calculates the height of the development using a roof ridge RL 166.65 and an existing ground level RL 157.88m, resulting in the extent of the contravention of the height of buildings development standard being a maximum of 0.27m (3.2%) as depicted in Figure 1.

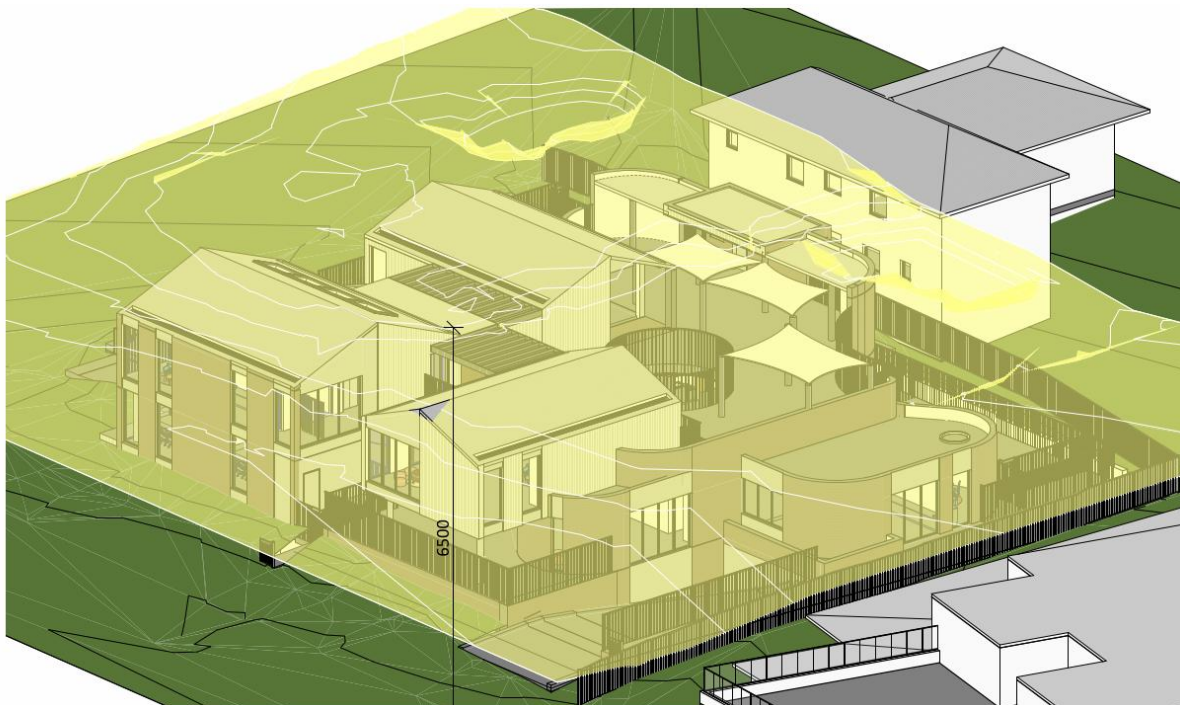


Figure 1: Height blanket showing maximum permitted building height and proposed exceedance along front ridge line

The applicant's request argues that the objectives of the development standard are achieved notwithstanding non-compliance with the standard as follows:

- The site presents a significant cross fall of approximately 3m from west to east towards Edward Bennett Drive. As the building height is measured from existing ground level, it is the fall of the land rather than any excessive height of the built form that gives rise to the minor exceedance. The residual exceedance is confined to a single ridge element at the front of the building.
- The design strategy of using pitched roofs results in a built form that appears more compatible with surrounding single dwellings than a compliant flat roof alternative would achieve.
- The height exceedance has no implications for infrastructure capacity. The additional roof height does not increase the building's capacity or functional intensity.
- The height exceedance element generates no adverse amenity impacts on neighbouring properties.
- The proposal presents to the street as a two-storey development with pitched roof and is compatible with the streetscape.

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

“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 development meets the objectives of Clause 4.3. In reaching this conclusion the following points are noted:

- The non-compliance is limited to a very small portion of the roof.
- The proposal was amended during the assessment to reduce the height whilst maintaining a design which is compatible with the streetscape.

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:

- *The proposed exceedance represents a minor numerical variation of 0.27m (or 3.2%) above the 8.5m maximum. Critically, the breach is confined to a single ridge element at the front of the building only, affecting a small portion of the total roof area. The remaining portions of the building envelope are significantly below the prescribed height limit.*

- *The scale of the building is compatible with the bulk and scale of development in the streetscapes and immediate surrounds. The proposal presents to both Edward Bennett Drive and Paxton Crescent as a 2-storey development, reflective of the predominantly 2 storey dwelling houses along both streets.*
- *The retained modest pitched roof form is reflective of the low density, residential character of the locality where pitched roof forms are prevalent while contributing to floor to ceiling heights that ensure a high level of internal amenity for children and educators. The nature and location of the height breach is such that it would not be perceived as non-compliant by a reasonable observer. The building will read as a 2 storey residential scale development from all public vantage points.*

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.

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.

Accordingly, it is considered that the written request satisfactorily demonstrates that compliance with the development standard is unreasonable and unnecessary. The written request 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.

2.1.4 Heritage Conservation

Clause 5.10 of the HLEP sets out heritage conservation provisions for Hornsby Shire. The site does not contain a heritage listed item and is not within a heritage conversation area (HCA), nor is it located in the vicinity of a heritage item or HCA. Accordingly, no further assessment regarding heritage is necessary.

2.1.5 Earthworks

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

The application proposes excavation associated with the construction of the child care centre, including the basement car park. The excavation would entail the removal of approximately 2000m³ of material from the site according to the submitted Waste Management Plan. Landscaping work is also proposed to create suitable outdoor play areas.

The following table sets out the proposal's compliance with the matters for consideration under Clause 6.2 of the HLEP.

Matter for Consideration	Comment
(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in	The application is supported by a stormwater plan which demonstrates that the site can be drained to the street. The application is supported by a geotechnical report, and suitable conditions have been recommended to ensure no detrimental

the locality of the development	impacts on drainage patterns and soil stability.
(b) the effect of the development on the likely future use or redevelopment of the land	The earthworks support the proposed development as a childcare centre.
(c) the quality of the fill or the soil to be excavated, or both	A condition is recommended to ensure that all fill material imported to, and all excavated material exported from the site must be classified by a suitably qualified person and disposed of at an approved waste management facility.
(d) effect of the development on the existing and likely amenity of adjoining properties	The impacts to amenity of adjoining properties are addressed throughout this report. A condition is recommended requiring a dilapidation report be prepared for the adjoining residential properties.
(e) the source of any fill material and the destination of any excavated material	A condition is recommended to ensure that all fill material imported to, and all excavated material exported from the site must be classified by a suitably qualified person and disposed of at an approved waste management facility.
(f) the likelihood of disturbing relics	Council has no record of any historical items or events of note on the subject site, of either Aboriginal or European Heritage. 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.

To manage the impacts which arise from the earthworks required for the proposed, a condition is recommended requiring a Construction Management Plan (CMP) be approved by Council prior to the issue of a Construction Certificate. This will address and manage construction related impacts such as truck movements, construction noise, erosion and sediment control.

2.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

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

2.2.1 Chapter 2 Vegetation in Non-Rural Areas

Chapter 2 of this policy aims to protect the biodiversity and amenity values of trees within non-rural areas of the state. Part 2.3 of the policy states that a development control plan may make a declaration in any manner relating to species, size, location and presence of vegetation. Accordingly, Part 1.2.6.1 of the HDCP 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 of the HDCP.

2.2.2 Chapter 6 Water Catchments

The site is located within the catchment of the Hawkesbury-Nepean River. The aim of this chapter is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of development are considered in the regional context. Part 6.2 of this Plan contains general planning considerations and strategies requiring Council to consider the impacts of development on water quality, aquaculture, significant vegetation habitats, extraction, environmental heritage and scenic quality, recreation and tourism, and agriculture.

The plan addresses matters related to biodiversity, ecology and environment protection; public access to, and use of, foreshores and waterways; 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 not impact on the water quality of the catchment and would comply with the requirements of chapter 6 of the Biodiversity and Conservation SEPP.

2.3 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.

2.3.1 Chapter 4 Remediation of Land

Section 4.6 of the Resilience and Hazard SEPP states that consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use.

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

The applicant submitted a Preliminary Site Investigation (PSI) prepared by Ideal Geotech, dated 4 July 2025 for the proposed development. It concludes that *“contaminant concentrations in soil samples were below the NEPM HIL A criteria and pose no risk to human health for residential use. Based on the available information, a Detailed Site Investigation (DSI) is not required. In accordance with ASC NEPM 2013 Schedule A, the site is considered suitable for the proposed development.”*

However, due to the limited site sampling undertaken in the PSI, Council considers that a Detailed Site Investigation (DSI) is required but can be conditioned to be completed following demolition works and before the issues of a Construction Certificate. This is considered suitable for the following reasons:

- As outlined above, the PSI considers the contaminant concentrations below the relevant criteria.
- The site has historically been used for residential purposes and is therefore considered to present a low risk of contamination.

- The existing dwelling footprints limit the opportunity to undertake further intrusive investigations across the site at this stage.
- The proposed development involves substantial bulk excavation works, which will provide an opportunity to identify any previously undetected contamination.
- Should any unexpected contamination be encountered during construction, it can be appropriately managed, investigated, and remediated through the implementation of suitable conditions of consent.

Therefore, appropriate conditions are recommended in Schedule 1 requiring the preparation of a DSI, and if necessary, a Remedial Action Plan to be approved by Council.

2.4 State Environmental Planning Policy (Transport and Infrastructure) 2021

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

2.4.1 Educational Establishments and Child Care Facilities

Chapter 3 of the Transport and Infrastructure SEPP aims to facilitate the effective delivery of educational establishments and early education and care facilities.

Section 3.23 of Chapter 3 requires Council to consider the relevant provisions of the Child Care Planning Guideline 2021 (CCPG).

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

An assessment of the application against Part 1.3 *Planning objectives*, Part 2 *Design quality principles*, Part 3 *Matters for consideration* and Part 4 *Applying the National Regulations to development proposals* is provided below.

2.4.1.1 Part 1.3 - What are the planning objectives?

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

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

2.4.1.2 Part 2 - Design quality principles

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

2.4.1.3 Part 3.1 - Site selection and location

The objectives of Part 3.1 of the CCPG are *to ensure that appropriate zone considerations are assessed when selecting a site; that the site selected for a proposed child care facility is suitable for*

use; that the sites for child care facilities are appropriately located and, that sites for child care facilities do not incur risks from environmental, health or safety hazards.

In support of the application, it is noted that *centre based child care facilities* are a permissible land use within the R2 Low density residential zone. The proposed development would provide facilities and services to meet the day to day needs of residents and would contribute to meeting demand for childcare in the Hornsby Shire.

For proposed developments in or adjacent to a residential zone, consideration should be given to the acoustic and privacy impacts, the setbacks and siting of buildings and traffic and parking impacts.

In regard to acoustics and privacy impacts, an amended Acoustic Report prepared by Acoustic Dynamics dated 6 July 2026 details the potential noise impacts of the proposed development on surrounding land uses. Council's Environmental Protection Team assessed the report and determined that the amended Acoustic Report is satisfactory and that the site is suitable for the proposed use.

The proposed siting of the building has considered the location of neighbouring dwellings and has been designed to ensure no adverse privacy or solar access impacts. Acoustic fencing is proposed along the edge of the proposed building as outlined in the Fence Diagrams which provide both acoustic attenuation and privacy.

A Traffic and Parking Impact Assessment prepared by Motion Traffic Engineers Pty Ltd dated June 2026 considers the traffic and parking impacts of the proposal on the existing road network. The assessment concludes that the proposed childcare centre would provide sufficient on-site car parking and the traffic generation would not adversely impact the existing local street networks. Council's Traffic Branch concurs with the findings of the report and notes that the net traffic generation would equate to 99 trips in the AM and 88 trips in the PM during the one hour peak traffic period which is considered acceptable. The traffic impacts of the proposed childcare centre are therefore considered acceptable.

The applicant submitted a Preliminary Site Investigation Report prepared by Ideal Geotech, dated 4 July 2025 for the proposed development. Council's Environmental Protection Team have considered the findings of the report and consider the site suitable subject to conditions requiring a Detailed Site Investigation to be completed prior to the issue of a Construction Certificate.

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

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

The objectives of Part 3.2 of the CCPG are to ensure that the child care facility is compatible with the local character and surrounding streetscapes; clear delineation between the child care facility and public spaces and, that front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public domain.

Development in the vicinity of the site is primarily a low density residential landscape setting with a streetscape predominantly comprising two storey dwelling houses. The adjoining site to the north-east contains a 60 place centre-based child care centre. The proposed child care centre would present to the streetscape as a two storey highly articulated structure, setback from the road and screened with appropriate landscaping to ensure that the development integrates into the existing low density residential streetscape.

The application proposes a basement level entry within the front elevation. The basement itself is designed as a true basement and is entirely below ground. The entry is recessed and well setback

from the street behind the rest of the building and does not increase the bulk and scale of the development.

The proposed works are of an appropriate scale and would not pose a detrimental impact to the public domain and would be consistent with the prevailing streetscape qualities.

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

2.4.1.5 Part 3.3 - Building orientation, envelope and design

The objectives of Part 3.3 of the CCPG are to ensure that child care facilities respond to the streetscape, are of a scale compatible with adjoining development, provide setbacks consistent with the predominant development in the locality, contribute positively to the area's character, and create safe and accessible environments.

The proposed child care facility would be setback from neighbouring dwellings to ensure visual privacy and minimise potential noise and overlooking of neighbours. The proposed child care facility has been designed to address the street frontage along Edward Bennett Drive as well as Paxton Crescent and is of a scale that is compatible with the adjoining development. Despite the non-compliance with the maximum building height of 8.5m, it is considered appropriate for the site and compatible with the streetscape as outlined in Section 2.1.3 of this report.

The proposed entry to the child care facility has been sited and designed to allow for accessible level access from the street and basement car parking.

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

2.4.1.6 Part 3.4 - Landscaping

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

Landscaping is provided within the front, secondary, side and rear setbacks. No trees are proposed to be removed. The application supported by a Landscape Plan which proposes tree planting within deep soil areas outside the outdoor play areas that provide sufficient landscaping to contribute positively to the streetscape and amenity of the locality.

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

2.4.1.7 Part 3.5 - Visual and Acoustic Privacy

The objectives of Part 3.5 of the CCPG include that child care centres minimise overlooking of internal living areas and private open spaces at adjoining sites through appropriate building layout including pathway, window and door locations.

The proposed child care facility has been sited and designed to minimise opportunities for direct overlooking from public areas. The development is setback from the street frontages and the outdoor play spaces are suitably screened and landscaped. The dwellings to the north and east of the child care centre would be separated by the required acoustic barriers along the edge of the building. The first floor elevations facing the north and east contain acoustic barriers with heights varying from 1.8m to 3.2m.

The proposal meets the objectives of Part 3.5 of the CCPG and is considered acceptable.

2.4.1.8 Part 3.6 Noise and Air Pollution

The objectives of Part 3.6 of the CCPG include that a suitably qualified acoustic professional prepare an acoustic report to identify an appropriate noise level for a childcare centre facility.

The applicant provided an amended Acoustic Report prepared by Acoustic Dynamics dated 6 July 2026. Council's Environmental Protection Team have assessed the Acoustic Report and concluded that the amended Acoustic Report has performed a sufficient assessment to establish the background noise level for the location, develop noise criteria consistent with the relevant standards and assessed operational noise sources associated with the use of the facility.

Acoustic recommendations are provided within the amended Acoustic Report and conditions of consent are recommended in Schedule 1 of this report to ensure that the recommendations are implemented during construction, and that certification is provided prior to occupation. Operational conditions include compliance with the nominated criteria and implementation of the Plan of Management.

The Acoustic Report proposes to construct acoustic barriers of varying height on both the ground and first floors. This is detailed within Part 7.3 of the Acoustic Report and the Fence Diagrams.

The application also includes a Plan of Management version 2 prepared by Planning Bricks Pty Ltd dated 1 July 2026 which implements the recommendations of the acoustic report to minimise noise impacts including:

- The daily routine for the children is managed to limit the number of children playing simultaneously in the outdoor play area in accordance with the maximum numbers specified in the Acoustic report.
- Requiring windows and doors to be closed during the specified times including active indoor play as per the acoustic report.

Council's Environmental Protection Team have determined that both the Acoustic Report and Plan of Management have been prepared and reviewed by suitably qualified acoustic professionals and are therefore satisfactory, subject to conditions.

As the subject site is not within close proximity to an industrial development, an Air Quality Assessment Report is not required to be prepared and submitted.

The proposal meets the objectives of Part 3.6 of the CCPG and is considered acceptable.

2.4.1.9 Part 3.7 Hours of operation

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

The proposed hours of use of the childcare facility are Monday to Friday from 7:00am to 6:00pm, which comply with this requirement.

2.4.1.10 Part 3.8 Traffic, parking and pedestrian circulation

Part 3.8 of the CCPG indicates that a Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised.

The HDCP has a parking requirement of 1 space per 4 children, giving a parking requirement of 28 spaces for the proposed child care facility with a capacity for 110 children. A total of 29 parking spaces, including one disabled parking space has been provided in the basement car park, which complies with the 1 space per 4 children requirement.

It is noted that neither the HDCP controls nor the CCPG contain any additional requirements for staff car parking. It is generally considered that the number of staff parking is included within the 1 space per 4 children calculation.

A Traffic and Parking Impact Assessment prepared by Motion Traffic Engineers Pty Ltd dated June 2026 considers the traffic and parking impacts of the proposal on the existing road network. The assessment concludes that the proposed childcare centre would provide sufficient on-site car parking and the traffic generation would not adversely impact the existing local street networks. The report notes that traffic generation would equate to 99 trips in the AM and 88 trips in the PM during the one-hour peak traffic period. An intersection analysis was conducted at the intersections of Edward Bennett Drive with Neale Avenue and Castle Hill Road with Edward Bennett Drive. This incorporated the estimated traffic volumes from the newly built child care centre at 43 Edward Bennett Drive. The analysis determined that there would be minimal impact on both intersections and the Level of Service, Average Delay, and Degree of Saturation metrics would not be significantly adversely affected.

Council's Traffic Branch concurs with the findings of the report and considers the traffic impacts acceptable.

The proposal meets the objectives of Part 3.8 of the CCPG and is considered acceptable.

2.4.1.11 Part 4 Applying the National Regulations to Development Proposals

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

Child Care Planning Guideline 2021 - Part 4			
Control	Proposal	Requirement	Complies
Floor Space Ratio	0.4:1	0.5:1	Yes
Unencumbered indoor space (3.25m ² per child)	404.6m ²	357.5m ²	Yes
Unencumbered outdoor space (7m ² per child)	866.8m ²	770m ²	Yes
Storage			
- External (0.3m ³ /child)	43.7m ³	33m ³	Yes
- Internal (0.2m ³ /child)	56.4m ³	22m ³	Yes
On site laundry	Provided on site	Provided on site	Yes

Child toilet facilities	Provided on site	Provided on site	Yes
Administration space	Provided on site	Provided on site	Yes
Nappy change facilities	Provided on site	Provided on site	Yes
Solar Access for outdoor play	30-60%	30-60%	Yes

As detailed in the above table, the proposed development complies with Part 4 of the CCPG.

2.4.1.12 Centre-based child care—non-discretionary development standards

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

Centre-based child care - non-discretionary development standards

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

Comment: Council received submissions that raised concerns in regard to the proximity to existing early childhood education and care facilities in the vicinity of the subject site.

In response to the concerns raised, it is noted that while there is another child care centre adjoining this site, a proposed child care centre can be located at any distance from an existing or proposed childhood education and care facility in accordance with Section 3.26(2)(a) of the Transport and Infrastructure SEPP.

- (b) *Indoor or outdoor space*

- (i) *For development to which clause 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations applies - the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those clauses, or*
- (ii) *For development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the Children (Education and Care Services) Supplementary Provisions Regulation 2012 applies - the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause;*

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

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

Comment: The site has an area of 1,684.2m² and is considered acceptable.

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

Comment: The centre would not be located within a heritage conservation area and is not in the vicinity of a heritage item.

In summary, the proposal complies with the Transport and Infrastructure SEPP provisions and is assessed as satisfactory in this regard.

1.2 State Environmental Planning Policy (Sustainable Buildings) 2022

The application has been assessed against the requirements of chapter 3 of State Environmental Planning Policy (Sustainable Buildings) 2022 which seeks to encourage the design and delivery of more sustainable buildings.

Chapter 3 sets out the Standards for non-residential development that involves:

- (a) *the erection of a new building, if the development has an estimated development cost of \$5 million or more, or*
- (b) *alterations, enlargement or extension of an existing building, if the development has an estimated development cost of \$10 million or more.*

As the cost of works for this development is \$4,973,281, Chapter 3 of the Sustainable Buildings SEPP does not apply.

2.5 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.

2.6 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:

HDCP - Part 3.1 Dwelling Houses & Part 7 Community Uses			
Control	Proposal	Requirement	Complies
Site Area	1,684.2m ²	N/A	N/A
Building Height	8.77m	max. 8.5m	No
No. storeys	2	max. 2 + attic	Yes

Site Coverage	39%	max. 30%	Overridden by T&I SEPP
Floor Area	1,741m ²	max. 430m ²	Overridden by T&I SEPP
Number of Children	110 children	max. 60 children	Overridden by T&I SEPP
Recreation Space			
- Indoor (3.25m ² per child)	404.6m ²	min. 357.5m ²	Yes
- Outdoor space (7m ² per child)	866.8m ²	min. 770m ²	Yes
Setbacks			
- Front (Edward Bennett Drive)	9m	6m	Yes
- Secondary (Paxton Crescent)	3m	3m	Yes
- Side (north-western)	2m	2m	Yes
- Rear (north-eastern)			
Ground floor	3.3m	3m	Yes
First floor	9m	8m	Yes
Landscaped Area (45% of lot size)	873.4m ²	min. 757.89m ²	Yes
Car Parking (1/4 children)	29 spaces	28 spaces	Yes

Clause 3.23 of the Transport and Infrastructure SEPP requires Council to consider the relevant provisions of the Child Care Planning Guideline 2021 (CCPG) and the CCPG will generally take precedence over the HDCP except for building height, side and rear setbacks and car parking rates. As detailed in the above table, the proposed development generally complies with the prescriptive measures of the HDCP with the exception of height. A brief discussion on compliance with relevant performance requirements is provided below and Part 1.3 General Controls are addressed in Section 3 of the report.

2.6.1 Scale

Submissions were received which raised concern regarding the bulk and scale of the proposed development.

The proposal involves a two storey child care centre with basement car parking. The application was amended during assessment reducing the maximum height from 9.59m to 8.77m. Whilst it contains a minor height non-compliance, as outlined in section 2.1.3 of this report, this does not contribute to excessive bulk and is compatible with the streetscape.

The development itself is well articulated with the structure designed as multiple separate buildings connected by open space. This reduces the perceived bulk of the structure. The hipped roof design ensures a roof form consistent with the surrounding low density residential development.

Furthermore, the application fully complies with the 0.5:1 floor space ratio as discussed in section 2.4.1.11 of this report which is the maximum FSR allowed for a child care centre within the R2 zone.

Therefore, the proposed scale of the development is considered acceptable.

2.6.2 Traffic

Submissions were received which raised concern regarding traffic generation and congestion on the local road network. Concern was raised regarding the cumulative impacts associated with the newly built child care centre adjoining the site on 43 Edward Bennett Drive.

As outlined in section 2.4.1.10 of this report, the application is supported by a Traffic Report which has incorporated the estimated traffic from the adjoining child care centre into its analysis. Measured data was unable to be sourced as the adjoining child care centre commenced operation after the lodgement of this application. Therefore, this application uses the traffic volumes derived from the traffic report submitted for the approved DA for the adjoining child care centre which Council considers an appropriate approach.

An analysis of the data concludes that the proposal would have minimal impact on the local road network with the minor increase in trip generation insufficient to warrant refusal of the application.

2.6.3 Parking

Submissions were received which raised concern regarding the appropriateness of having a basement car park and impacts to on-street parking.

As outlined in section 2.4.1.10 of this report, the proposal provides 29 car parking spaces which is in excess of the requirement in accordance with the HDCP which requires 28 car parking spaces for a 110 place centre.

The Plan of Management includes the implementation of a Neighbourhood Parking Policy which stipulates that:

- All staff members who drive to the site must occupy the designated basement staff parking spaces, instead of parking on the street.
- Visitors are to occupy the designated basement visitor parking spaces, instead of parking on the street.

Council considers the number of onsite parking spaces provided and the Plan of Management to be acceptable and would minimise impacts to the street. It is the responsibility of the operator to ensure all relevant personnel are aware of and adhere to this policy.

2.6.4 Noise and Vibration

Submissions have been received which raised concern regarding unacceptable noise impacts to adjoining residential properties and the ability to comply with the noise mitigation measures within the Acoustic Report and Plan of Management.

2.6.4.1 Acoustic Assessment

- The acoustic assessment has been prepared in accordance with the relevant legislation and industry guidelines and includes unattended noise monitoring to establish the background noise level. This level is consistent with the background noise levels obtained for the child care application approved at 43 Edward Bennett Drive.

- The assessment considers both external noise intrusion into the child care centre, as well as contributed noise emissions levels from the child care centre to nearby sensitive receivers.
- The assessment considers the cumulative noise impact associated with the operation of both the subject centre and the newly built centre at 43 Edward Bennett Drive. The impact is concluded to be acceptable.

2.6.4.2 Plan of Management

- The Plan of Management (PoM) is well prepared and accurately incorporates the recommendations of the acoustic report.
- The PoM was amended during assessment to modify the daily routine to be more practicable for educators to comply with and provide equitable indoor and outdoor play time for children. This was achieved by grouping the children by playroom meaning the entire group either engages in outdoor or indoor play depending on their allotted timeslot. This is considered a reasonable measure that can be adhered to and enforced.
- Plans have been prepared which clearly identify the windows and doors required to be closed or opened at the relevant period.
- Active and passive play has been clearly defined to enable enforceability.

Council's Environmental Protection team have determined that the Acoustic Report and PoM have been prepared and reviewed by suitably qualified acoustic professionals and are satisfactory, subject to conditions.

Both the architectural plans and landscape plans reflect the recommendations of the Acoustic Report and compliance with the recommendations of the Acoustic Report would be ensured by conditions of consent.

It is considered that the noise mitigation measures proposed within the Acoustic Report and included within the PoM are acceptable in minimising impacts to neighbours. A condition is recommended ensuring that the acoustic measures be implemented during the construction and certified by a qualified acoustic consultant. Furthermore, the POM must be implemented during the operation of the childcare centre. Acoustic verification is also required within a period of either six months of commencement of operation or establishment of an enrolment of 85% of the 110 children capacity confirming compliance with the Acoustic Report.

Subject to these conditions, it is generally considered that the proposed childcare centre would have an acceptable noise impact which complies with the noise criteria to adjoining properties.

2.6.5 Waste Management

A desired outcome of Part 1.3.2.3 Waste Management of the HDCP is to encourage *"waste storage and collection facilities that are designed to encourage recycling, located and designed to be compatible with the streetscape, accessible, clean and safe for users and collectors."*

The application is supported by an Operational Waste Management Plan prepared by Waste Audit & Consultancy Services, dated June 2026. The bin storage area is proposed within the basement level and will contain 3x 660L bins for general waste, 2x 660L bins for recycling, 2x 120L bins for food organics, and 1x 240L bin for garden organics. The general waste will be collected twice weekly, recycling and food organics weekly, and garden organics fortnightly. The bin storage area has

dimensions of 3m x 4.3m. However, this has been reviewed by Council Waste Management Team which has determined that it would need to be widened to 3.3m x 4.3m to allow adequate room for manoeuvring. This has recommended as a design change condition.

Waste collection will be facilitated by a private waste contractor and will involve on-site collection within the basement by an SRV rear lift collection vehicle. Swept path diagrams have been provided which demonstrates that the vehicle can manoeuvre within the basement to enable forward entry and exit.

It is noted that the vertical clearance to the basement is 2.5m which does not comply with the 3.5m vertical clearance required by AS2890.2. However, the application has demonstrated that the collection vehicle proposed to service the site will have a 2.1m operating height and can safely service the site despite the non-compliance with AS2890.2. Therefore, the 2.5m vertical clearance is considered acceptable and appropriate conditions have been recommended to ensure the 2.5m is not reduced along the travel path for any reason, including for ceiling mounted services.

Since the site is located near residential development, to minimise noise and disturbance to the surrounding sensitive uses, waste collections are limited to between 6am and 8pm Monday to Friday, and 8am and 8pm weekends and public holidays. An appropriate condition has been recommended.

The child care centre will operate from 7am to 6pm Monday to Friday. Council is satisfied that the waste collection can occur as stated in the Operational Waste Management Plan with minimal impact on the surrounding area. It will be the operator's responsibility to coordinate with the waste contractor to ensure the child care operation and car parking within the basement is not adversely affected during waste collection.

Subject to conditions, the proposal is acceptable regarding Part 1.3.2.3 Waste Collection of the HDCP.

2.7 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. Should the application be approved, an appropriate condition of consent is recommended requiring the payment of a contribution in accordance with the Plan.

2.8 Housing and Productivity Contribution

The Housing and Productivity Contribution applies to the development as it would result in an additional 704m² gross floor area for commercial development. Accordingly, the requirement for a monetary Housing and Productivity contribution is recommended as a condition of consent.

2.9 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.

2.10 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 a consent authority in determining a development application, with the following matters being relevant to the proposal:

- If demolition of a building proposed - provisions of AS2601

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the Regs are not relevant to the proposal.

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

No trees are proposed to be removed. The application is supported by an Arborist Letter prepared by Bellevue Tree Consultants. Conditions are recommended for the protection and retention of all trees on the site.

3.1.2 Stormwater Management

The application proposes the installation of an on-site detention system located underneath the pedestrian entry pathway from Paxton Crescent which would drain to Council's street drainage system on Edward Bennett Drive.

A pump-out system is required for the basement and has been designed by a qualified engineer. The remainder of the site will be gravity drained.

No objections are raised with the proposed method of stormwater disposal subject to conditions.

The southern end of the site is partially impacted by the 1% overland flow path. The application is supported by a Flood Report prepared by NY Civil Engineering, dated 11 March 2026 which requires a crest at the top of the driveway for flood protection purposes. The driveway design was amended during assessment to incorporate the crest while maintaining compliance driveway grades. No concerns were raised by Council's stormwater engineer, subject to conditions.

3.1.3 Earthworks

This is addressed in Section 2.1.4 of this report.

3.2 Built Environment

3.2.1 Built Form

The two-storey child care centre would be located within a low density residential area. The built form of the proposal would be consistent with the locality.

3.2.2 Access and Mobility

The application is supported by an Access Report, prepared by Ergon Consulting dated 16 October 2025 which supports the development.

3.2.3 Traffic

This has been addressed in section 2.4.1.10 of this report.

3.3 Social Impacts

The development would make a positive social contribution to the local community by providing an further 110 child care places to support a growing population.

The social impacts of the development on the local and broader community have been considered with specific reference to the potential employment generation within the complex. It is estimated that the development would employ at least 18 staff post construction. This is consistent with The Sydney Plan which identifies the need to provide an additional 950,000 new jobs by 2046.

3.4 Economic Impacts

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

4. SITE SUITABILITY

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

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

4.1 Flooding

Whilst not a flood control lot, the site is partially impacted by the 1% overland flow path. Council's engineering assessment has determined that any flooding would not adversely impact the site subject to the driveway crest as discussed in in Section 3.1.2 of this report.

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 10 April 2026 and 24 April 2026 in accordance with the Hornsby Community Engagement Plan. During this period, Council received 15 submissions. One additional submission was received outside the notification period and is therefore not counted as a submission for the purpose of the EP&A Act. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

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

A total of 15 submissions objected to the development, generally on the grounds that the development would result in:

- Unacceptable traffic on local streets.
- Impacts to on-street parking.
- Impacts to pedestrian and road safety.
- Cumulative impact and over-concentration of child care centres.
- Incompatibility with the R2 zone.
- Unacceptable noise from activities at the centre;
- Development that is excessive in bulk and scale.
- Geotechnical risks from excavation.
- Stormwater impacts.
- Construction impacts.
- Insufficient infrastructure capacity.
- Accuracy of the supporting documentation.

- Loss of residential housing.

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

5.1.1 Pedestrian and Road Safety

Submissions have been received raising concern regarding pedestrian and road safety risks, including illegal stopping, double parking, vehicle behaviour during peak periods, etc.

In response to these submissions, the proposal has been designed to meet the relevant Australian Standards including sightlines and vehicle manoeuvring areas. As outlined in Section 2.6.3 of this report, the proposal includes a Plan of Management to manage the movement of traffic into and out of the site.

The pedestrian entrance which is off Paxton Crescent is separated from the vehicular entrance which is off Edward Bennett Drive. Therefore, pedestrian safety has been considered by the proposal. Any illegal driving acts are governed separately by the NSW Road Rules.

5.1.2 Compatibility with the R2 Zone

Submissions have been received raising concern regarding the proposal's incompatibility with the R2 zone objectives.

The proposal is a permissible land use under the HLEP within the R2 zone. Whilst the HDCP contains controls to limit the maximum number of children for child care centres in a residential zone, this is overridden by the Transport and Infrastructure SEPP. Regardless, the development has been designed to respond to the low density residential development in the building's form and structure.

5.1.3 Overdevelopment of the site

Submissions have been received raising concern that the proposal is an overdevelopment of the site.

In response to these submissions, as detailed in the body of this report, the proposed development meets the maximum FSR control of 0.5:1 in accordance with the CCPG. It also generally complies with the HDCP controls including setbacks, and no trees are proposed to be removed.

5.1.4 Provision of Supporting Infrastructure

Submissions have been received raising concern that supporting infrastructure has not been designed to accommodate the proposed use which is an intensification of the site compared to two dwelling houses.

Whilst the proposal is a more intensive land use compared to the existing use, it is nevertheless permissible in the zone. Regarding sewer and water infrastructure, a condition is recommended in Schedule 1 of this report requiring the applicant to obtain a Section 73 Certificate from Sydney Water to allow Sydney Water to determine the availability of water and wastewater services, which may require extensions, adjustments, or connections to their mains.

Conditions are also recommended requiring the payment of the following development contributions:

- Section 7.12 contributions to Council which assists Council in providing community infrastructure and helps ensure the existing community is not burdened by the provision of community infrastructure required as a result of future development.

- Housing and Productivity Contribution to the NSW Government to help fund the delivery of state infrastructure in high growth areas of NSW.

5.1.5 Accuracy of Supporting Documentation

Submissions have been received raising concern the supporting documentation contains errors and discrepancies.

The supporting documentation has been reviewed and contains adequate information to enable the accurate assessment of the proposal. Minor errors which may be present are not significant and would not alter the outcome of the assessment.

5.1.6 Loss of Housing Stock

Submissions have been received raising concern that the proposal is an unnecessary loss of existing housing stock and shouldn't be overridden by child care needs.

Section 3.27 of the Transport and Infrastructure SEPP states that Council does not need to be satisfied there is a demonstrated need or demand for child care services in the assessment of an application for a child care centre. The establishment of a 110 place child care centre at the expense of two detached dwellings is considered to be consistent with the objectives of the R2 Low density residential zone.

5.2 Public Agencies

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

6. THE PUBLIC INTEREST

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

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

The application is considered to have satisfactorily addressed Council's 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 demolition of existing dwellings and structures and construction of a 110 place centre-based child care centre.

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

Council received 15 submissions during the public notification period. The matters raised have been addressed in the body of the report.

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, the Panel can be 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 generally 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 Variation Request
2.  Architectural Plans
3.  Plan of Management

File Reference: DA/284/2026
Document Number: D09902918

SCHEDULE 1

GENERAL CONDITIONS

ITEM 2

Condition

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
DA02.01, Rev A	Demolition Plan	ArtMade Architects	20.10.2025	
DA02.02, Rev C	Site Plan	ArtMade Architects	24.08.2026	
DA03.01, Rev C	Basement Level Plan	ArtMade Architects	24.08.2026	
DA03.02, Rev C	Ground Floor Level Plan	ArtMade Architects	24.08.2026	
DA03.03, Rev C	First Floor Level Plan	ArtMade Architects	24.08.2026	
DA03.05, Rev C	Fence Diagrams & Details	ArtMade Architects	24.08.2026	
DA04.01, Rev B	External Elevations & Finishes	ArtMade Architects	22.06.2026	
DA05.01, Rev D	Sections	ArtMade Architects	24.08.2026	
H408_LP_01, Rev A	Landscape Plan - Ground Floor	Creative Planning Solutions	03.11.2025	
H408_LP_02, Rev A	Landscape Plan - First Floor	Creative Planning Solutions	03.11.2025	

Supporting Documentation

Document Title	Prepared by	Dated	Council Reference
Arborist Letter of Review Ref: CCB0326 V1	Bellevue Tree Consultants	20.03.2026	D09342494
Access Report Rev. B	Ergon Consulting	16.10.2025	D09342485
Environmental Noise Impact Assessment Ref: 6821R001/MM.260706 Rev 3	Acoustic Dynamics	06.07.2026	D09640982
Plan of Management Version 2	Planning Bricks	01.07.2026	D09640944
Preliminary Site Investigation Ref:	Ideal Geotech	04.07.2025	D09342499

Document Title	Prepared by	Dated	Council Reference
79189 Version 1.0			
Flood Report Ref: E250520 Rev A	NY Civil Engineering	11.03.2026	D09342503
Geotechnical Assessment Report Ref: 79189-IDF	Ideal Geotech	01.07.2025	D09342513
Demolition & Construction Waste Management Plan	Waste Audit & Consultancy Services	Oct 2025	D09342540
Operational Waste Management Plan	Waste Audit & Consultancy Services	June 2026	D09466880
Traffic and Parking Impact Assessment Ref: A206316A (version 2)	Motion Traffic Engineers	June 2026	D09640876

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

2. Removal of Trees

No consent is granted for the removal of any trees as part of this consent.

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.

3. Amendment of Plans

1. To comply with Councils requirement in terms of waste management, the approved plans are to be amended as follows:
 - a. The internal dimensions of the bin storage room at the basement level must be widened from 3.0m x 4.3m to 3.3m x 4.3m. Internal dimensions do not include wall thickness, support columns, ventilation shafts etc for which additional space must be allowed with consideration of the bin layout. This must be included as an addendum to the Waste Management Plan.
 - b. To remove inconsistencies between plans, the approved Landscape Plans (No. H408_LP_01, Rev A and H408_LP_02, Rev A, prepared by Creative Planning Solutions, dated 3 November 2026) must be amended to be consistent with the approved architectural plans.
2. These amended plans must be submitted with the application for the Construction Certificate.

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

2. 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. A separate approval must be obtained from Council for all works within the public road reserve under S138 of the Roads Act 1993.
3. A separate application under Section 68 of the Local Government Act 1993 must be lodged via the NSW Planning Portal for approval to connect to the existing Council pit.
4. 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.

3. Section 7.12 Development Contributions

1. In accordance with Section 4.17(1) of the Environmental Planning and Assessment Act 1979 and the Hornsby Shire Council Section 7.12 Development Contributions Plan 2019-2029, \$47,412.25 must be paid towards the provision, extension or augmentation of public amenities or public services, based on development costs of \$4,741,226.
2. The value of this contribution is current as of 2 October 2026. If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 7.12 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

$$\text{\$C}_{PY} = \frac{\text{\$C}_{DC} \times \text{CPI}_{PY}}{\text{CPI}_{DC}}$$

Where:

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

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

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

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

3. The monetary contributions shall be paid to Council:
 - a. Prior to the issue of the Subdivision Certificate where the development is for subdivision; or
 - b. Prior to the issue of the first Construction Certificate where the development is for building work; or
 - c. Prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
 - d. Prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.

Note: Should the cost of works increase at Construction Certificate stage, a revised contribution amount will be calculated in accordance with the Hornsby Shire Council Section 7.12 Development Contributions Plan.

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

Note: In accordance with Ministerial Directions, the payment of contribution fees for development with a cost of works of over \$10 million can be deferred to prior to Occupation Certificate.

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

Note: To arrange a Payment Advice for the monetary contributions, please contact Council's Customer Service Team on 9847 6666.

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

4. Housing and Productivity Contribution

Before **the issue of a construction certificate**, the housing and productivity contribution (HPC) set out in the table below is required to be made.

Housing and productivity contribution	Amount
Housing and productivity contribution (base component)	\$23,800.71
Total housing and productivity contribution	\$23,800.71

The HPC must be paid using the NSW planning portal.

At the time of payment, the amount of the HPC is to be adjusted in accordance with the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024* (HPC Order).

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the *Environmental Planning and Assessment Act 1979* agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the *Environmental Planning and Assessment Act 1979* to the development, or the HPC Order exempts the development from the contribution.

Reason: To require contributions towards the provision of regional infrastructure.

5. Retaining Walls

To ensure the stability of the site, structural details of all required retaining walls must be submitted with the application of the Construction Certificate.

Reason: To ensure the stability of the site and adjoining properties.

6. Detailed Environmental Site Investigation

1. On completion of site demolition works and prior to the issue of a Construction Certificate and commencement of earthworks, a Detailed Environmental Site Investigation (DSI) Investigation must be prepared for the site. The DSI must be prepared by a certified consultant as recognised under the Certified Environmental Practitioners Scheme - Site Contamination (CEnvP (SC)) / the Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) certification and submitted to the Principal Certifier and Council.
2. The DSI must be carried out in accordance with the NSW Environment Protection Authority's Contaminated Sites Guidelines and the National Environment Protection Measure (Assessment of Site Contamination) 2013 (NEPM ASC 2013) and is to include a sampling and analysis program to assess the recommendations within section 7.2 of the Preliminary Site Investigation Ref: 79189 Version 1 prepared by Ideal Geotech, dated 4 July 2025.
3. The DSI must include a statement verifying the site is suitable for its approved use OR, should the DSI identify contamination exceeding criteria prescribed by the NEPM ASC 2013 and in accordance with the NSW Environment Protection Authority's Contaminated Sites Guidelines, a Remedial Action Plan shall be prepared for the subject site by a certified consultant recognised under the CEnvP (SC)/CPSS CSAM certification scheme and the Remedial Action Plan must be approved by Council via Council's Online Services Portal prior to the commencement of the required remediation works.
4. Any remediation works required must be carried out in accordance with the Council approved Remediation Action Plan and a Validation Report prepared by a certified consultant recognised under the CEnvP (SC)/CPSS CSAM certification scheme in accordance with the NSW Environment Protection Authority's Contaminated Sites Guidelines and NEPM ASC 2013 shall be submitted to the Principal Certifier and Council prior to the issue of a Construction Certificate and commencement of earthworks.
5. The Site Investigation or Validation Report must include a statement verifying the site is suitable for its approved use.

Note: The Site Investigation and, if applicable Remediation Action Plan and Validation Report, 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 ensure the land is suitable for its intended use.

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition

7. 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).

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. Dilapidation Report

1. Prior to the commencement of any works on site, the applicant must submit for approval by the Principal Certifier (with a copy forwarded to Council) a 'Dilapidation Report' detailing the structural condition of the adjoining properties:
 - a. Lot 701 DP 260293, 41 Edward Bennet Drive, Cherrybrook
 - b. Lot 524 DP 260037, 4 Paxton Crescent, Cherrybrook
2. The report must include a photographic survey of the adjoining properties detailing their physical condition, both internally and externally, including such items as walls, ceilings, roof, structural members, and other similar items. The report must be completed by a chartered structural/geotechnical engineer. A copy of the dilapidation report must be submitted to Council.
3. In the event access to adjoining allotments for the completion of a dilapidation survey is denied, the applicant must demonstrate in writing that all reasonable steps have been taken to advise the adjoining allotment owners of the benefit of this survey and details of failure to gain consent for access to the satisfaction of the Principal Certifier.

Note: This documentation is for record keeping purposes only and can be made available to an applicant or affected property owner should it be requested to resolve any dispute over damage to adjoining properties arising from works. It is in the applicant's and adjoining owner's interest for it to be as detailed as possible.

Reason: To record the condition of adjoining properties and public land to resolve any dispute over damage from works.

10. Identification of Survey Marks

A registered surveyor must identify all survey marks in the vicinity of the proposed development. Any survey marks required to be removed or displaced as a result of the proposed development shall be undertaken by a registered surveyor in accordance with

Section 24 (1) of the *Surveying and Spatial Information Act 2002* and following the Surveyor General's Directions No.11 Preservation of Survey Infrastructure.

Reason: To identify and protect the State's survey infrastructure.

11. Stormwater Drainage

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

1. Connected to an existing Council stormwater pit in Edward Bennett Drive.
 - a. A separate application under Section 68 of the Local government Act 1993 must be lodged via the NSW Planning Portal for Council approval to connect to connect to the existing Council pit.
2. The stormwater drainage system must be designed by a qualified hydraulic engineer.

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. Have a capacity of not less than 13 cubic metres, and a maximum discharge (when full) of 36 litres per second.
2. Have a surcharge/inspection grate and trash screen 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.

13. Internal Driveway/Vehicular Areas

The driveway and parking areas on site must be designed, and a Construction Certificate issued in accordance with Australian Standards AS2890.1, AS2890.2, AS3727 and the following requirements:

1. Design levels at the front boundary shall be obtained by lodging an "Application for Boundary Levels" to Council to be incorporated in the driveway longitudinal sections. The application shall include longitudinal sections designed and certified by a qualified traffic engineer in accordance with the SRV ground clearance requirements of Australian Standards AS 2890.2.
2. The driveway be a rigid pavement.

3. The driveway shall be designed with a crest at minimum RL 157.52 to protect the basement garage from flooding in accordance with the Flood Report No. E250520 Revision A dated 11 March 2026 by NY Consulting
4. Longitudinal sections along both sides of the access driveway shall be submitted to the Principal Certifier in accordance with the relevant sections of AS 2890.1. The maximum grade shall not exceed 1 in 4 (25%) with the maximum changes of grade of 1 in 8 (12.5%) for summit grades and 1 in 6.7 (15%) for sag grades. Any transition grades shall have a minimum length of 2 metres. The longitudinal sections shall incorporate the design levels obtained by Council.
5. Prior to the issue of a construction certificate, a certificate from a qualified traffic engineer shall be submitted to the principal certifying authority certifying that the access driveway, parking and services areas have been designed in accordance with Australian Standards AS 2890.1 and AS 2890.2 to cater for Small Rigid Vehicles.

Reason: To provide safe vehicle and pedestrian access.

14. Road Works

Prior to the issue of a Construction Certificate a separate approval pursuant to Section 138 of the *Roads Act 1993* must be obtained from Council for public road works in public road reserve. All road works approved under this consent must be designed in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and the following requirements:

1. The existing kerb and gutter along the full frontage of the property in Edward Bennet Drive and Paxton Crescent shall be removed and replaced with new concrete kerb and gutter and sealing of road pavement between the existing pavement and lip of the gutter.
2. The vehicular crossing must be constructed in accordance with Council's Civil Works Design Specification 2005.
3. Crossing levels at the front boundary must be constructed to the design levels obtained from Council;
4. Any redundant crossings must be replaced with integral kerb and gutter;
5. The existing footpath along the full frontage of the development site shall be removed and a new concrete footpath poured along to the full frontage of the subject site.
6. The footway area must be restored by turfing;
7. Approval must be obtained from all relevant utility providers that all necessary conduits be provided and protected under the crossing.
8. The existing road pavement to be saw cut a minimum of 600 mm from the existing edge of the bitumen and reconstructed.
9. The submission of a compaction certificate from a geotechnical engineer for any fill within road reserves, and all road sub-grade and road pavement materials.

Reason: To ensure infrastructure works are designed and constructed to appropriate standards and requirements of the Roads Act 1993.

15. Mechanical Services and Plant - Acoustic Verification

1. Prior to the issue of a construction certificate, a review of all proposed mechanical services and plant must be carried out by a suitably qualified Acoustic Consultant to ensure the cumulative noise emissions from the development including all proposed mechanical services and plant do not exceed the adopted project noise trigger levels as detailed in Table 5.1 and the recommendations within Section 7.5 of the Environmental Noise Impact Assessment Ref: 6821R001/MM.260706 Rev 3 prepared by Acoustic Dynamics, dated 6 July 2026.
2. Certification by the Acoustic Consultant must be submitted to the Principal Certifier prior to issue of a Construction Certificate verifying the above.
3. Should the acoustic review identify that acoustic treatment of mechanical services and plant is required to satisfy the above criteria, these measures shall be incorporated in the mechanical services plans and submitted to the Principal Certifier with the construction certificate application.

Reason: To ensure appropriate acoustic treatment is installed to mechanical services and plant to minimise noise and vibration impacts to nearby premises.

16. Acoustic Report Recommendations

Prior to the issue of a construction certificate, the construction certificate drawings shall be reviewed by a suitably qualified acoustic consultant to confirm that all the recommendations and modelling assumptions to achieve acoustic compliance within the Environmental Noise Impact Assessment Ref: 6821R001/MM.260706 Rev 3 prepared by Acoustic Dynamics, dated 6 July 2026 have been incorporated into the drawings and designs. A design compliance report detailing the review shall be submitted to the satisfaction of the Principal Certifying Authority confirming compliance.

Reason: To protect acoustic amenity of building occupants and surrounding premises.

17. 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 total quantity and size of trucks for all importation and exportation of fill on site throughout all stages of works, and a breakdown of total quantities of trucks for each stage of works.

- i. The number of weeks trucks will be accessing and leaving the site with excavated or imported fill material.
 - j. The maximum number of trucks travelling to and from the site on any given day for each stage of works.
 - k. The maximum number of truck movements on any given day during peak commuting periods for all stages of works.
 - l. 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 Construction Waste Management Plan detailing the following:
 - a. A table of information detailing cut and in-situ fill calculations for all stages for works. The table must include specified dimensions (WxLxD) and total cubic metres
 - b. Details of the importation or excavation of soil and fill, the classification of the fill, disposal methods and authorised disposal depots that will be used for the fill.
 - c. A scaled site plan including levels of the extent of cut and fill on the site, forming part of the proposed development.
 - d. Asbestos management requirement and procedures for removal and disposal from the site in accordance with AS 2601-2001 The Demolition of Structures, and the Protection of the Environment Operations (Waste) Regulation 2005.
 - e. General construction waste details including construction waste skip bin locations and litter management for workers.
4. 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.
5. A Construction Noise and Vibration Management Plan (CNMP) which includes:
 - a. Existing noise and vibration levels within the proximity of the proposed development site.
 - b. Details of the extent of rock breaking or rock sawing works forming part of the proposed development works.

- c. The maximum level of noise and vibration predicted to be emitted during each stage of construction.
 - d. The duration of each stage of works where the maximum level of noise and vibration are predicted to be emitted for.
 - e. Details of mitigation measures, inclusive of respite periods, that will meet acoustic standards and guidelines at each stage of works.
 - f. Details of a complaints handling process for the surrounding neighbourhood for each stage of works.
6. An Erosion and Sediment Control Plan (ESCP) that describes all erosion and sediment controls to be implemented in accordance with the publication Managing Urban Stormwater: Soils & Construction (4th Edition), which includes:
- a. A site survey which identifies contours and approximate grades and the direction(s) of fall.
 - b. Locality of site and allotment boundaries.
 - c. Location of adjoining road(s) and all impervious surfaces.
 - d. Location of site access and stabilisation of site access.
 - e. Provision for the diversion of run off around disturbed areas.
 - f. Location of material stockpiles.
 - g. Proposed site rehabilitation and landscaping; staging of construction works.
 - h. Maintenance program for erosion and sediment control measures.
 - i. Provide a plan of how all construction works will be managed in a wet-weather events (i.e. storage of equipment, stabilisation of the Site)
7. A de-watering plan that describes all controls to be implemented for the disposal of water that accumulates within any site excavation areas.
8. 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.

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.

18. Appointment of a Project Arborist

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.

Details of the appointed project arborist must be submitted to Council and the PCA with the application for the construction certificate/subdivision works certificate.

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

19. Fire System Boosters and Pumps

When a fire rated wall is required to provide protection for fire hydrants, sprinkler boosters or pumps that are situated forward of the building line, an architectural plan shall be submitted to Council for approval demonstrating any screening treatment proposed that protects the visual amenity of the streetscape. The architectural plan shall be drawn to scale, detail the location, appearance and type of screening treatment proposed.

Architectural details can be forwarded to Hornsby Certifiers at:
hornsbycertifiers@hornsby.nsw.gov.au or ph: 9847 6787.

Reason: To ensure adequate protection is provided to NSW Fire & Rescue and to minimise the visual impact on the streetscape.

20. Appointment of a Project Geotechnical Engineer

An appropriately qualified Geotechnical Engineer shall be appointed to ensure that the stability of the land and any works are undertaken generally in accordance with the recommendations outlined in the approved Geotechnical Report Ref: 79189-IDF prepared by Ideal Geotech, dated June 2025.

Reason: To ensure the stability of the site.

21. Geotechnical Requirements

The development must be designed and carried out in accordance with the recommendations outlined in the approved Geotechnical Report Ref: 79189-IDF prepared by Ideal Geotech, dated June 2025. Details are to be provided to the Principal Certifier with the application for a Construction Certificate.

Reason: To ensure the stability of the site and adjoining properties.

22. Works Zone

All construction vehicles associated with the proposed development are to be contained on site or in an approved "Works Zone".

1. The site supervisor to be advised that the Works Zone will be deemed to be in effect, and fees will apply, between the dates nominated by the supervisor, or when parking spaces are managed for the sole use of construction vehicles associated with the site.
2. The Works Zone signs shall be in effect only apply for the times approved by Council, and the time is to be noted on the sign. Eg, 'Works Zone Mon - Sat 7am - 5pm'.
3. The Works Zone is only to be used for the loading and unloading of vehicles. Parking of workers' vehicles, or storage of materials, is not permitted.

Note: The Work Permit must be applied for via Council's Online Services Portal. Before applying for a Work Zone permit, please review the requirements at: <https://www.hornsby.nsw.gov.au/Property/Building-and-development/Apply-for-a-permit>.

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

23. Parking

1. All car parking must be constructed and operated in accordance with Australian Standard AS/NZS 2890.1:2004 Off-street car parking and Australian Standard AS 2890.2:2002 Off-street commercial vehicle facilities and the following requirement:
 - a. All parking areas and driveways are to be sealed to an all weather standard, line marked and signposted.
 - b. Car parking, loading and manoeuvring areas to be used solely for nominated purposes.
 - c. Vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads.
 - d. All vehicular entry on to the site and egress from the site shall be made in a forward direction.
2. All parking for people with disabilities is to comply with AS/NZS 2890.6:2009 Off-street parking for people with disabilities.
3. All drop off /pickup parking spaces are to be 2.6m wide, staff parking spaces can be 2.4m wide. Aisle width is to be a minimum of 5.8m wide.
4. Bicycle parking spaces are to be designed in accordance with AS2890.3-1993 Bicycle parking facilities.
5. Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath.
6. Motorcycle parking spaces are to be designed in accordance with AS/NZS 2890.1:2004 Figure 2.7

Reason: To ensure parking facilities and vehicle manoeuvring areas are designed in accordance with Australian Standards.

24. Waste Management Details

The following waste management requirements must be complied with before the issue of the construction certificate:

1. Should there be any conflict or confusion between approved plans and/or consent conditions related to the waste management system or waste collection vehicle access, then written clarification must be obtained from Council.
2. The approved operational waste management system must not be amended without the written consent of Council.
3. Details of all changes to the waste management plans (including but not limited to, the bin storage rooms, ramp gradients, bin carting paths, bulky waste storage) must be submitted to Council's waste team (which can be contacted via devmail@hornsby.nsw.gov.au) for approval before the issue of a Construction Certificate.

4. A design certificate and detailed plans must be submitted to the Principal Certifier prior to the issue of the Construction Certificate, which demonstrates that all bin carting routes are continuous accessible paths of travel in accordance with AS1428 Design and Access for Mobility and have been designed to be constructed in accordance with the Waste Minimisation and Management Guidelines and including the following requirements:
 - a. The path must be smooth hard non-slip surface. Concrete pavement or tiles for example are acceptable, but carpet, mulch, pebbles, stepping stones, grass etc is not acceptable.
 - b. The path must be sufficiently wide to allow the waste, bins and any carting equipment to easily pass through without scraping (especially around corners/bends, through gates/doors and past parked cars).
 - c. There must not be any steps, lips, kerbs, walls or other obstacles or obstructions or protrusions on any bin carting route. Ramps and service lifts are acceptable.
 - d. The gradient must be no steeper than 1:14 for 240L bins and 1:30 for 660L or 1100L bins.
 - e. Bin carting routes must be safe and well lit.
 - f. Bin carting routes must be direct and as short as possible and must be wholly within the property boundaries (does not include the public footpath or road).
 - g. Bin carting routes must not cross into a private lot or pass through any habitable room.
5. A design certificate and detailed plans are to accompany any Construction Certificate application, which demonstrate that the bin storage room has been designed to be constructed in accordance with the Waste Minimisation and Management Guidelines and including the following requirements:
 - a. The room(s) must be roofed.
 - b. The room(s) must not be used for any other purposes, including for the storage of equipment used in the management of waste (which must have its own lockable storage).
 - c. Meters, communications and electrical distribution boards/control panels, pipework and other obstacles must not be located in the room(s).
 - d. The room(s) must be free from obstructions and protrusions.
 - e. Any ceiling mounted elements (e.g. pipes, fire sprinkler system, ventilation ducting) must not interfere with waste management operations and must not project so low as to render the room a hard hat zone under Workplace health and safety legislation (Acts, Regulations and codes of practice).
 - f. Elements occupying floor space such as vertical ventilation/service shafts and support columns must not be added to or relocated within the room.
 - g. The floor must be constructed of concrete at least 75mm thick and adequately graded to drain to sewer through a Sydney Water approved

- drainage fitting with bucket trap to sewer. It must not discharge into a stormwater drain.
- h. The floor must be finished so that it is non-slip when wet, sealed and impervious, and has a smooth and even surface coved at all intersections with walls.
 - i. There must be no step or lip between the room and the access path. The floor of the room must transition smoothly through the door opening to the pathway.
 - j. The ceilings and walls must be masonry or other thermally insulated fire-rated material finished with sealed smooth faced durable non-absorbent material capable of being cleaned.
 - k. The room(s) must be well lit and have artificial lighting available 24 hours a day controlled by a switch located inside the room adjacent to the entrance doorway.
 - l. The room(s) must be provided with adequate mechanical ventilation in compliance with AS1668.2 The use of ventilation and air-conditioning in buildings Part 2: Mechanical ventilation, or natural ventilation in compliance with AS1668.4 The use of ventilation and air-conditioning in buildings Part 4: Natural ventilation.
 - m. Noise associated with the room is not to give rise to “offensive noise” as defined under the Protection of the Environment Operations Act 1997.
 - n. The room(s) must be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock located in a position where it cannot be damaged.
 - o. The doors must be robust, close fitting and self-closing. The doors must be lockable and be able to be opened from inside the room without a key. The room must have double doors or a roller door with door opening no less than 2000mm wide. The doors must not be obstructed by bin placement. Door swing must not block access to the bins and must not block the pathway for moving bins to the waste collection room or waste collection vehicle. Swing doors should open outwards 180 degrees and must be able to be locked open.
 - p. The room(s) must be designed and constructed to prevent the entry of insects, vermin, birds and other nuisance species.
 - q. The room(s) must be designed to restrict or deter access by non-residents and unauthorised persons.
 - r. Fire protection measures (e.g., extinguishers, sprinklers, alarms) must be in accordance with the National Construction Code.
 - s. Fire escape routes must not pass through the room.
 - t. Construction must be in compliance with the National Construction Code.
 - u. The internal dimensions of the bin storage room must be no less than 3.3m by 4.3m. Internal dimensions do not include wall thickness, support columns,

ventilation shafts etc for which additional space must be allowed with consideration of the bin layout.

6. Integrated within the kitchen design, dual pull-out under bench waste bins must be incorporated in the joinery of the kitchen. Every kitchen must be provided with two containers approximately 15-30L each, one each for general waste and recycling, stored within a kitchen cupboard.

Reason: To ensure all necessary infrastructure is provided for the safe, efficient and effective management of waste for the full operational life of the development.

25. Waste Collection Vehicle Access

The following requirements must be complied with before the issue of the construction certificate:

1. A design certificate from a qualified traffic engineer and detailed plans must be submitted to the Principal Certifier prior to the issue of the Construction Certificate that confirms that the waste can be directly collected from the basement level as detailed in the Waste Management Plan, the Carpark and driveway Certification Report and the Traffic Report. The design certificate is to specifically confirm that the:
 - a. Waste collection vehicle can enter the site in a forward direction, adequately manoeuvre into position near the bins, load bins and exit the site in a forward direction.
 - b. Vertical clearance of 2.5 m is provided along the entire route of travel of the waste collection vehicle on site and loading bay.
 - c. The installation of ceiling mounted cable trays, pipes, fire sprinkler systems, ducting, lights, signs etc will not reduce the vertical clearance of the waste collection vehicle travel path on site to less than 2.5 m.
 - d. The waste collection vehicle must be able to manoeuvre in the basement with limited need for reversing.
 - e. The grades along the entire travel path of the waste collection vehicle on site must not exceed the maximum grades of AS2890.2 for a small rigid vehicle. The maximum gradient of 1:6.5 for forward movements and 1:8 for reverse movements must not be exceeded. Vehicle performance assessments using Council's waste collection vehicles have shown gradients steeper than 1:6.5 are not safe in all conditions so are not suitable for use by waste collection vehicles.
 - f. The vehicle ground clearance is sufficient to prevent scraping.
 - g. All pavement has been designed to carry the load of the small rigid vehicle.
2. Any electrical transformer/substation enclosure and fire hydrant booster enclosure must be located such that compliance is achieved with the Australian Standard AS2890.2 sight distance requirements for the approved small rigid waste collection vehicle exit manoeuvre turning path. In applying the Australian Standard, the driveway/accessway must be regarded as one-way for the small rigid waste collection vehicle movements.

Note: Should the fire hydrant booster need a fire wall in its proposed location adjacent to the driveway, then it will block driver view of approaching pedestrians.

3. The Landscape Plan must be such that ground level landscape elements do not and will not with future plant growth, impact compliance with the Australian Standard AS2890.2 sight distance requirements for the approved small rigid waste collection vehicle exit manoeuvre turning path.

Reason: To ensure appropriate access for waste collection.

BEFORE BUILDING/DEMOLITION WORK COMMENCES

Condition

26. 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).

27. Asbestos Removal Signage

Before demolition or remediation work commences involving the removal of asbestos, a standard commercially manufactured sign containing the words 'DANGER: Asbestos removal in progress' (measuring not less than 400mm x 300mm) must be erected in a prominent position at the entry point/s of the site and maintained for the entire duration of the removal of the asbestos.

Reason: To alert the public to any danger arising from the removal of asbestos.

28. 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:
 - a. Could cause a danger, obstruction, or inconvenience to pedestrian or vehicular traffic.
 - b. Could cause damage to adjoining lands by falling objects; and/or
 - c. Involve the enclosure of a public place or part of a public place; and/or

- d. Have been identified as requiring a temporary hoarding, fence, or awning within the Council approved Construction Management Plan (CMP); 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.

29. Hazardous Material Survey Before Demolition

Before demolition work commences, a hazardous materials survey of the site must be prepared by a suitably qualified person and a report of the survey results must be provided to council at least one week before demolition commences.

Hazardous materials include, but are not limited to, asbestos materials, synthetic mineral fibre, roof dust, PCB materials and lead based paint.

The report must include at least the following information:

1. The location of all hazardous material throughout the site
2. A description of the hazardous material
3. The form in which the hazardous material is found, e.g. AC sheeting, transformers, contaminated soil, roof dust
4. An estimation of the quantity of each hazardous material by volume, number, surface area or weight
5. A brief description of the method for removal, handling, on-site storage, and transportation of the hazardous materials
6. Identification of the disposal sites to which the hazardous materials will be taken

Note: The Hazardous Material Survey 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 require a plan for safely managing hazardous materials.

30. 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.

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

31. Notice of Commencement for Remediation

At least two days before remediation work commences, written notice must be provided to council and the occupiers of properties adjoining and immediately across the road of the site of the intention to commence remediation works on the site. 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.

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

32. Notice to Council

Any notice to Council required by State Environmental Planning Policy (Resilience and Hazards) 2021 is to be submitted to Council (devmail@hornsby.nsw.gov.au) within the prescribed period prior to the commencement and/or completion of remediation works.

Reason: To ensure Council receives notification of commencement and/or completion of remediation works in accordance with section 4.14 and 4.15 of SEPP (Resilience and Hazards).

33. 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
 - c. Have an on-site effluent disposal system approved under the *Local Government Act 1993*.

Reason: To ensure adequate toilet facilities are provided.

34. Erosion and Sediment Control Measures

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

35. Installation of Tree Protection Measures

1. Trees to be retained and numbered T3, T4, T5, T6, T7 as identified on the Tree Location Plan (Appendix A, page 3) of the Arborist Letter of Review Ref: CCB0326 V1 prepared by Bellevue Tree Consultants dated 20 March 2026 must have tree

protection measures for the ground, trunk and canopy installed by the project arborist for the duration of demolition and construction works, in accordance with the recommendations of the Arborist Letter of Review Ref: CCB0326 V1 and the Tree Location Plan prepared by Bellevue Tree Consultants dated 20 March 2026

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.

36. Waste Management Details

Prior to the commencement of any works, the on-going waste collection service must be cancelled, and the bins retrieved by the waste collection service provider.

Note: For residential properties, contact Council via waste@hornsby.nsw.gov.au to cancel waste services and return bins.

Reason: To ensure domestic waste bins are not used for demolition and construction waste.

37. 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.

38. Road Opening Permit

A Road Opening Permit shall be obtained from the Council to permit a person to dig into Council assets, such as roads, footpaths and nature strips. The fees payable for the

restoration of any public asset damaged to be repaired by Council shall be at the applicant's full expense.

Note: The Road Opening Permit must be applied for via Council's Online Services Portal at: <https://www.hornsby.nsw.gov.au/property/build/apply-for-a-permit/road-openings>

Reason: To ensure public infrastructure and property is maintained.

DURING BUILDING/DEMOLITION WORK

Condition

39. 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.

40. 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.

41. Hazardous Building Materials Removal

During demolition works, the recommendations within the Hazardous Building Materials Survey are to be complied with.

Reason: To ensure the safe removal of hazardous building materials including asbestos.

42. Handling of Asbestos

While demolition or remediation work is being carried out, any work involving the removal of asbestos must comply with the following requirements:

1. Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling, and disposal of any asbestos material;
2. Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and
3. Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m² or more of asbestos sheeting must be registered with the EPA on-line reporting tool WasteLocate.

Reason: To ensure that the removal of asbestos is undertaken safely and professionally.

43. 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.

44. Street Sweeping

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.

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.

45. Compliance with Geotechnical Requirements

The project Geotechnical Engineer must be on-site during the installation of footings and all other earthworks to ensure the development complies with the recommendations of the approved Geotechnical Report Ref: 79189-IDF prepared by Ideal Geotech, dated June 2025.

Reason: To ensure the stability of the site.

46. 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.

47. 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.

48. Soil Management (Excavation and Fill)

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 Part 1: Classifying Waste 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 and Council upon request.
3. All fill material imported to the site is to be:
 - a. Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997*, or
 - b. A material identified as being subject to a resource recovery exemption by the NSW EPA and used and/or applied in accordance with the conditions of the resource recovery exemption, or
 - c. A combination of the above two materials.
4. Prior to fill material being imported to the site, a Waste Classification Certificate is to be obtained from a suitably qualified environmental consultant confirming any fill material imported to the site is in accordance with (c). The certificate must be provided to the person(s) responsible for receiving and/or applying the fill material on site before the material is imported and made available to Council at its request.

Reason: To ensure soil removed from the site is appropriately disposed of and soil imported to the site is not contaminated and is safe for future occupants.

49. Survey Report

A report(s) must be prepared by a registered surveyor and submitted to the Principal Certifier:

1. Prior to the pouring of concrete at each level of the building certifying that:
 - a. The building, retaining walls and the like have been correctly positioned on the site; and
 - b. The finished floor level(s) are in accordance with the approved plans.
2. Confirming that the waste collection vehicle turning area complies with Australian Standard AS2890.1-2004 and AS20890.2-2002 for small rigid vehicles (SRV).

Reason: To ensure buildings are positioned in the approved location and at the correct height.

50. Waste Management

All work must be carried out in accordance with the approved waste management plan, as amended by conditions of consent.

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

51. Maintenance of Public Footpaths

1. Public footpaths must be maintained for the duration of works to ensure they are free of trip hazards, displacements, breaks or debris to enable pedestrians to travel along the footpath safely.
2. 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 maintain safe pedestrian movement.

52. Compliance with Construction Management Plan

The Council approved Construction Management Plan (CMP) prepared under condition 17 must be complied with for the duration of works, unless otherwise approved by Council.

Note: Any amendments to the approved 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 ensure implementation of construction measures to protect the public and the surrounding environment.

53. 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.

54. 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 Plan (Appendix A, page 3) of the Arborist Letter of Review Ref: CCB0326 V1 Ref: prepared by Bellevue Tree Consultants dated 20 March 2026.

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

55. Maintaining Tree Protection Measures

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

Reason: To protect trees during construction.

56. 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.
 - a. Excavations for the construction and/or installation of the house/deck/driveway/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 1m undertaken manually to locate roots and allow for pruning in accordance with subsection (1) of this condition.

3. No changes of grade within the Tree Protection Zone of trees to be retained on the approved plans, are permitted.
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.
5. Where scaffolding is required, ground protection must be installed beneath the scaffolding in the following order:
 - a. Installation of a 100mm deep layer of woodchip; and
 - b. Installation of geotextile fabric ground covering; and
 - c. Installation of scaffold boarding above the woodchip and geotextile fabric.

Reason: To protect trees during construction.

57. 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.

58. 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).

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

59. Compliance with Acoustic Report

All control measures nominated in the Environmental Noise Impact Assessment Ref: 6821R001/MM.260706 Rev 3 prepared by Acoustic Dynamics, dated 6 July 2026 must be implemented.

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

60. De-watering of Excavated Sites

Water that accumulates within an excavation must be removed and disposed of in a manner that does not result in the pollution of waters, nuisance to neighbouring properties, or damage to neighbouring land and/or property.

Reason: To document the safe removal of water during work to protect the public and the surrounding environment.

61. 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.

62. 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.

63. 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.

64. Compliance with Remediation Action Plan

1. Where the results of the soil testing undertaken in accordance with Condition 6 identifies the need for remediation, remediation works must be carried out in accordance with the Remedial Action Plan approved under Condition 6.
2. The applicant must notify Council in writing of any proposed variation to the remediation works. Any variation to the remediation works must be detailed in an amended RAP prepared by a certified consultant as recognised under the Certified Environmental Practitioners Scheme - Site Contamination (CEnvP (SC)) and the Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) certification and in accordance with the NSW Environment Protection Authority's Contaminated Sites Guidelines, the National Environment Protection (Assessment of Site Contamination) Measure 2013 (NEPM).

3. The amended RAP must be submitted to Council's Compliance Team via Council's Online Services Portal and receive written approval prior to the commencement of such work.

Note: Any amendments to the approved RAP 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 ensure implementation of approved remedial action plan.

65. Maintain waste removal records

For all waste removal from the site, written records must be maintained detailing the following information. Such information must be made available to Council at its request and is to be submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works with the Construction/Demolition Waste Report:

1. The identity, contact and driver's licence details of the person removing the waste.
2. The waste carrier vehicle registration.
3. Date and time of waste collection.
4. A description of the waste (type of waste and estimated quantity).
5. Details of the site to which the waste is to be taken.
6. The corresponding weighbridge tip docket/receipt from the site to which the waste was transferred (noting date and time of delivery, vehicle registration, description (type and quantity) of waste).
7. Whether the waste is expected to be reused, recycled or go to landfill.

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

Reasons: To ensure waste removed from the site is appropriately disposed of and to protect the environment and local amenity during work.

66. 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.
3. All waste must be stored within the boundaries of the development site at all times.
4. Litter and illegal dumping must be promptly removed from public land adjacent to the development site.

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

67. Waste collection vehicle onsite travel path

For the approved waste collection vehicle travel path on site, the following requirements must be complied with:

1. Prior to the pouring of concrete for the waste collection vehicle travel path on site (including but not limited to the driveway and vehicular ramp), the principal certifying authority must receive a report prepared by a registered surveyor that certifies the gradient of the finished pavement will be no greater than 1:6.5.
2. Prior to the pouring of any concrete support columns or walls on the basement level, the principal certifying authority must receive a report prepared by a registered surveyor that certifies no support columns or walls are positioned within the approved travel path or low speed manoeuvring clearance of the waste collection vehicle.
3. Prior to the pouring of concrete on the level over the waste collection vehicle travel path, the principal certifying authority must receive a report prepared by a registered surveyor that certifies the vertical clearance for the waste collection vehicle travel path will be no less than 2.5 metres. The floor to ceiling height will need to exceed this if there are to be ceiling mounted objects (e.g. pipes, cable trays). Note: vertical clearance is the distance from the floor to the lowest ceiling mounted object and not the floor to ceiling height.
4. The driveway and vehicular ramp concrete pavement must be rough textured and should not be sealed. If sealing is necessary, then the coating must include anti-slip aggregates.
5. The installation of overhead or ceiling mounted cable trays, pipes, ventilation ducting, signs, light fittings, awnings, roller doors etc must not reduce the vertical clearance over the waste collection vehicle travel path on site to less than 2.5 metres.
6. Do not construct any walls, support columns or other structure within the onsite travel path or low speed manoeuvring clearance of the waste collection vehicle.

Reason: To ensure appropriate access for waste collection.

ON COMPLETION OF DEMOLITION WORK

Condition

68. Demolition Waste Report

Within 14 days of the completion of each stage of works, a report must be prepared by an appropriately qualified person and submitted to the principal certifying authority, certifying the following:

1. A comparison of the estimated quantities of each waste type against the actual quantities of each waste type. Explanations of any deviations to the approved Waste Management Plan is required to be included in this report, including what can be done to improve the management of waste in future projects.
2. That at least 80% of the waste generated during the demolition and construction phase of the development was reused or recycled. If the 80% diversion from landfill was not achieved, the Report is to include the reasons why this occurred, what can be done to improve diversion from landfill in future projects, and certify that appropriate work practices were employed to implement the approved Waste Management Plan. The

Report must be based on documentary evidence such as tipping dockets/receipts from recycling depots, transfer stations and landfills, audits of procedures etc. which are to be attached to the report.

3. All waste was taken to site(s) that were lawfully permitted to accept that waste. Records of waste removed from the site must be matched to tipping dockets/receipts from recycling depots, transfer stations and landfills to verify the destination of all waste removed from the site (which are to be attached to the report), along with a licence check or similar verification that the site was lawfully permitted to accept that waste. If lawful waste disposal cannot be confirmed then the Report and all associated records are to be submitted to Council.

Reason: to verify all waste removed from the site was appropriately disposed of.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition

69. Sydney Water - Section 73 Compliance Certificate

1. A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. The Sydney Water assessment will determine the availability of water and wastewater services, which may require extensions, adjustments, or connections to their mains. Sydney Water recommends that an early application for the certificate be made, as there may be assets to be built and this can take some time.
2. A Section 73 Compliance Certificate must be obtained from Sydney Water and submitted to the Principal Certifier before an Occupation Certificate or Subdivision Certificate will be issued.
3. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Note: Go to the [Sydney Water website](#) or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

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

70. 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 arborist report 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.

71. Asbestos Clearance Certificate

Should any asbestos be encountered during demolition or construction works, a licenced asbestos assessor is required to provide a Clearance Certificate to the Principal Certifier prior to the issue of an Occupation Certificate, certifying that the asbestos has been removed and appropriately disposed of, and the site is now suitable for its approved use.

Reason: To ensure the appropriate removal and disposal of contaminated materials and the site is suitable for its approved use.

72. 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 in accordance with AUS-SPEC Specifications. 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.

73. 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 detention 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.

74. Retaining Walls

All retaining walls must be constructed as part of the development and prior to the issue of an Occupation Certificate.

Reason: To ensure the stability of the site and adjoining land.

75. No Stopping Restrictions

Prior to the issue of an Occupation Certificate, the applicant must design and install statutory “No Stopping” restrictions in accordance with AS 1742 and Council's requirements at the intersection of Edward Bennett Drive and Paxton Crescent, comprising:

1. A minimum 10 metre “No Stopping” zone on all intersection approaches in accordance with the Road Rules and applicable Australian Standards.
2. All costs associated with the design, approval, installation and line marking shall be borne by the applicant.

Reason: To ensure the safety of the local road.

76. Bus Zone Signage Upgrade

Prior to the issue of an Occupation Certificate, the existing bus stop located in front of the development shall be upgraded to formal statutory bus zone restrictions, including:

1. Installation of BUS ZONE signage extending 20 metres on the approach side of the bus stop.
2. Installation of BUS ZONE signage extending 10 metres on the departure side of the bus stop.
3. All signage, line marking and associated works shall comply with TfNSW requirements, Australian Standards and Council specifications.
4. Detailed plans shall be submitted to and approved by Council prior to installation.

Reason: To upgrade the existing bus stop signage.

77. Submission of Excavated Material Tipping Dockets to Principal Certifier

Tipping dockets 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.

78. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed road pavement, kerb & gutter, public drainage systems, driveways, and on-site detention system. The plan(s) must be accompanied by a certificate from a registered surveyor certifying that all pipelines and associated structures lie wholly within any relevant easements.

Reason: To ensure infrastructure is constructed and positioned in the approved location.

79. Consolidation of Allotments

All allotments the subject of this consent must be consolidated into one allotment.

Note: The applicant is recommended to submit the plan of subdivision to consolidate allotments to the NSW Department of Lands at least 4-6 weeks prior to seeking an occupation certificate.

Reason: To ensure the orderly development of the site.

80. Preservation of Survey Marks

A certificate by a Registered Surveyor must be submitted to the Principal Certifier, certifying that there has been no removal, damage, destruction, displacement or defacing of the existing survey marks in the vicinity of the proposed development or otherwise the re-establishment of damaged, removed, or displaced survey marks has been undertaken in accordance with the Surveyor General's Direction No.11 Preservation of Survey Infrastructure.

Reason: To protect the State's survey infrastructure.

81. 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.

82. Food Premises Compliance

1. The fit out and operation of that part of the building to be used for the manufacture, preparation or storage of food for sale, must be in accordance with Australian Standard AS4674-2004 Design and fit out of food premises, the Food Act 2003, and the Food Regulation 2025 and the Food Standards Code developed by Food Standards Australia New Zealand. Food Standards 3.2.2 and 3.2.3 are mandatory for all food businesses.
2. Prior to the commencement of the business, the operator is required to contact Council's Public Health Team to arrange for a Health Officer to carry out an inspection of the premises to ensure compliance with the Australian Standard AS4674-2004 Design and fit out of food premises, the Food Act 2003, Food Regulation 2025 and the Australia New Zealand Food Standards Codes.
3. A letter of compliance provided by Hornsby Shire Council's Health Officer must be submitted to the Principal Certifier prior to an occupation certificate being issued.

Note: Council's Public Health team can be contacted at publichealth@hornsby.nsw.gov.au or 02 9847 6014.

Reason: To ensure the premises is designed and constructed for the safe preparation and storage of food.

83. Kitchen Exhaust Installation

1. A kitchen exhaust system must be designed and installed to effectively prevent air pollution in accordance with the *Protection of the Environment Operations Act 1997*.
2. Certification from an appropriately qualified and practising mechanical engineer must be submitted to the Principal Certifying Authority, detailing that the exhaust ventilation system has been installed in accordance with Australian Standard 1668, prior to completion and the issue of an Occupation Certificate.

Reason: To ensure the premises is designed and constructed for the safe preparation and storage of food.

84. 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.

85. Certification of Acoustic Measures

Prior to the issue of an Occupation Certificate, an acoustic assessment must be undertaken by a suitably qualified acoustic consultant and a compliance report submitted to the Principal Certifier and Council demonstrating that:

1. All acoustic mitigation measures have been installed in accordance with the recommendations of the Environmental Noise Impact Assessment Ref: 6821R001/MM.260706 Rev 3 prepared by Acoustic Dynamics, dated 6 July 2026.

Reason: To protect the amenity of the local area.

86. Amendments to Plan of Management

Before the issue of an occupation certificate, the Plan of Management Version 2 prepared by Planning Bricks dated 1 July 2026 is to be updated and submitted to Council via Council's Online Services Portal and approved by Council's Compliance Team prior to issue of an occupation certificate. The updated Plan of Management must be amended as follows:

1. Inclusion of the marked plans within Appendix A of the Environmental Noise Impact Assessment Ref: 6821R001/MM.260706 Rev 3 prepared by Acoustic Dynamics, dated 6 July 2026 of the windows and doors that are to re-main closed during indoor active play.
2. A requirement in Section 4 that appropriate signage or stickers will be placed and maintained on the windows that require closing during active play.
3. A requirement that appropriate signage be maintained in each room displaying the daily play schedule relevant to that room, to ensure compliance with the outdoor play requirements set out in Section 4.2 of the PoM and the schedule outlined in Section 3. For example, a laminated copy of the daily play schedule could be prominently displayed in each room.
4. The inclusion of detailed plans of centre including location of the outdoor passive play areas.
5. Inclusion of the Flood Emergency Response Plan required by condition 87.

Note: The Plan of Management 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 ensure the operational measures implemented protect the amenity of the local area

87. Compliance with Flood Management Requirements

1. A structural Engineer must issue a compliance certificate stating that the structure can withstand lateral flood flow, buoyancy, suction effects and debris load impact for the 1 in 100 year ARI depths and velocities.

2. A Flood Emergency Response Plan shall be prepared by a qualified engineer experienced in flooding and included in the Plan of Management as amended by condition 86.

Reason: To ensure flood protection.

88. Certification from Geotechnical Engineer

Prior to the issue of an occupation certificate, a certificate by a qualified geotechnical engineer must be submitted to the Principal Certifier, certifying that all works have been carried out in accordance with the recommendations in the approved Geotechnical Assessment Report Ref: 79189-IDF prepared by Ideal Geotech, dated 1 July 2025.

Reason: To ensure the stability of the site.

89. Waste Management Facilities

Prior to the issue of any occupation certificate or the use commencing, whichever is earlier, the following waste management requirements must be complied with:

1. Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifying Authority must have written evidence that:
 - a. An Agreement/Contract has been signed for delivery of commercial bins for the on-going use of the commercial tenancies before occupation and for regular scheduled commercial waste collection services to commence within 7 days of occupation of the commercial tenancies.
2. For every kitchen, integrated within the kitchen design, dual pull-out under bench waste bins must be incorporated into the joinery of the kitchen. Every kitchen must be provided with two containers approximately 15-30 litres each, one each for general waste and recycling, stored within a kitchen cupboard.
3. Bin and recycling stations must be located near waste generation points to enable the separation of waste types at source. Waste separation systems must be provided within or in close proximity to food preparation area(s) to allow for plastic and cardboard waste (for recycling) to be collected and handled separately from food waste and for food waste to be collected separately from general waste.
4. All bin carting routes must be devoid of steps.

Note: Ramps and service lifts between different levels are acceptable

5. All bin carting routes must be an accessible path of travel in compliance with AS1428.1 (except bin carting routes where motorised bin moving equipment is used) and wide enough for the largest bin to be moved with ease.
6. All lockable doors and gates, both pedestrian and vehicular, that are required to be opened by a waste collection contractor in the provision of waste collection services, must be able to be opened using a pin code. That is, locks requiring keys, remote controls, key fobs etc are not acceptable.
7. The doors to the bin storage room must be wide enough to fit the largest bin through, robust, close fitting and self-closing. The doors must be lockable and capable of being opened from the inside without a key. The doors must be able to be opened using a PIN code. Any door swing must not block access to the bins and must not block the pathway

for moving bins to the collection vehicle. Swing doors should open outwards 180 degrees and must be able to be locked open. No bins are to be stored within the door swing.

8. All bin storage room(s) must be free from meters, power boards, piping and any other obstructions.
9. The bin storage room at the basement level must include water for cleaning with tap located in a position where it will not get damaged, graded floors with drainage to sewer, smooth sealed and impervious surfaces, and have artificial lighting, mechanical ventilation in compliance with AS1668.2, robust door(s) and must be lockable (but able to be opened from inside the room without a key).

Reason: To ensure all necessary infrastructure is provided for the efficient and effective management of waste for the full operational life of the development.

90. Construction Waste Report

For each stage of works, prior to the issue of the occupation certificate for that stage, a report must be prepared by an appropriately qualified person and submitted to the principal certifying authority, certifying the following:

1. A comparison of the estimated quantities of each waste type against the actual quantities of each waste type. Explanations of any deviations to the approved Waste Management Plan is required to be included in this report, including what can be done to improve the management of waste in future projects.
2. That at least 80% of the waste generated during the demolition and construction phase of the development was reused or recycled. If the 80% diversion from landfill was not achieved, the Report is to include the reasons why this occurred, what can be done to improve diversion from landfill in future projects, and certify that appropriate work practices were employed to implement the approved Waste Management Plan. The Report must be based on documentary evidence such as tipping dockets/receipts from recycling depots, transfer stations and landfills, audits of procedures etc. which are to be attached to the report.
3. All waste was taken to site(s) that were lawfully permitted to accept that waste. Records of waste removed from the site must be matched to tipping dockets/receipts from recycling depots, transfer stations and landfills to verify the destination of all waste removed from the site (which are to be attached to the report), along with a licence check or similar verification that the site was lawfully permitted to accept that waste. If lawful waste disposal cannot be confirmed then the Report and all associated records are to be submitted to Council.

Reason: to verify all waste removed from the site was appropriately disposed of.

91. Completion of external works and waste infrastructure

1. Before the first Occupation Certificate is issued or the use commences, whichever is earlier, all external works including but not limited to the vehicular crossover and footpath, must be completed. A temporary vehicular crossover is not acceptable.
2. For staged occupation or where the Occupation Certificate will be limited to a portion of the development:

- a. Prior to the issue of the occupation certificate or the use commencing, whichever is earlier, the waste management system for the portion of the development covered by the occupation certificate, must be completed. The waste management system includes but is not limited to the bin storage facilities, bulky waste storage, the road/accessway and vehicular crossover, loading bay and truck turning area, as applicable.
- b. Once any part of the development has been occupied or the use has commenced, whichever is earlier, all areas used by the waste collection vehicle and personnel to service that part of the development, must be maintained in a condition acceptable to Council during all subsequent construction work.

Reason: to ensure appropriate access for waste collection.

92. Waste collection vehicle on-site access

The following requirements must be complied with before the issue of any occupation certificate or the use commencing, whichever is earlier:

1. A survey of the finished access way (including ramp, waste collection vehicle turning area, loading bay and site entry/exit) to be used by the waste collection vehicle, must be carried out by a registered surveyor and submitted to the principal certifying authority and to Council.
 - a. The survey is to include dimensions, gradients and vertical clearance.
 - b. Written confirmation must be submitted to Council and to the Principal certifying authority from a qualified Traffic Engineer, that this survey confirms the finished access way within the waste collection vehicle travel path was designed and constructed in compliance with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for small rigid vehicles (for layout, dimensions, manoeuvring clearances, gradients, rates of change of grade, and vehicle ground clearance) and the minimum vertical clearance is 2.5m. The vertical clearance is the distance from the floor to the lowest ceiling mounted object and not the floor to ceiling height.
 - c. Vehicle performance assessments using Council's waste collection vehicles have shown gradients steeper than 1:6.5 are not safe in all conditions so are not suitable for use by waste collection vehicles.
2. The access way (including ramp, vehicle turning area, loading bay and site entry/exit) to be used by waste collection vehicles, must comply with Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for small rigid vehicles.

Note: AS2890.2-2002 includes a maximum gradient of 1:6.5 for forward travel, 1:8 for reverse travel. The minimum vertical clearance may be reduced to 2.5 m. Encroachments of the small rigid vehicle turning path and low speed manoeuvring clearance (300 mm both sides) into parking spaces cannot be tolerated. Vehicle performance assessments using Council's small rigid waste collection vehicle have shown gradients steeper than 1:6.5 are not safe in all conditions so are not suitable for use by waste collection vehicles.

3. The 2.5 metre clearance height within the waste collection vehicle travel path must not be reduced by ducting, lights, pipes or anything else.
4. Sight distances must comply with AS2890.2 for small rigid vehicles.
5. “No parking” signs must be erected to prohibit parking in the waste collection loading bay and turning area.
6. Support columns adjacent to the waste collection vehicle travel path must be painted a contrasting colour to the walls (to aid visibility).
7. Site security measures implemented on the property, including electronic gates, must not prevent access to the collection point by waste removal services.
8. All lockable doors and gates, both pedestrian and vehicular, that are required to be opened by the waste collection contractor in the provision of waste collection services, must be able to be opened using a pin code. That is, locks requiring keys, remote controls, key fobs etc are not acceptable. The vehicle sensors of automatically opening doors/gates must be set up for both small rigid vehicles and cars.
9. The traffic safety measures in the approved operational traffic control plan must be installed and operational.

Reason: to ensure appropriate access for waste collection.

OCCUPATION AND ONGOING USE

Condition

93. Use of Premises

The development approved under this consent shall be used for a centre-based child care facility and not for any other purpose without Council's separate written consent.

Reason: To ensure the use is undertaken with the terms of this consent.

94. Hours of Operation

The hours of operation of the premise are restricted to those times listed below:

Monday to Friday	7 am to 6 pm
Saturday & Sunday	Closed
Public Holidays	Closed

Reason: To protect the amenity of the local area.

95. Acoustic Verification - Operational

Within a period of either 6 months of commencement of operation OR establishment of an enrolment of a minimum 85% of the total permitted capacity of 110 children, whichever comes first, an acoustic assessment is to be undertaken by a suitably qualified acoustic consultant in accordance with the Environment Protection Authority's *Noise Policy for Industry* and an Acoustic Verification Report must be submitted to Hornsby Shire Council confirming compliance with the Environmental Noise Impact Assessment Ref: 6821R001/MM.260706 Rev 3 prepared by Acoustic Dynamics, dated 6 July 2026 including:

1. Cumulative noise emissions of mechanical plant and equipment, onsite traffic, drop-off and pick-up and indoor play.
2. Noise emissions from outdoor play.
3. Should the assessment find any non-compliances with the specified noise criteria, the Acoustic Verification Report must detail appropriate recommendations to mitigate the identified non-compliances. Any recommendations contained within the Acoustic Verification Report must be implemented within one (1) month of Council giving their approval for the recommendations.
4. Within 1 month of completion of the approved recommended works, a further Acoustic Verification Report must be undertaken by a suitably qualified acoustic consultant, in accordance with the Environment Protection Authority's Noise Policy for Industry (2017) and an Acoustic Verification Report must be submitted to Hornsby Shire Council confirming compliance with the approved recommended works.
5. The consent of the neighbouring properties from which measurements are to be taken must be obtained by the acoustic engineer carrying out the analysis. A right of access for acoustic monitoring purposes is not implied by these conditions. If access is denied from a neighbouring site, the monitoring is required to be carried out at a suitable alternate location as agreed to by Council.

Reason: To protect the amenity of the local area.

96. Noise Management - Ongoing

To ensure a reasonable level of acoustic amenity is provided to nearby residential premises the operation of the development must ensure:

1. The cumulative $L_{eq,15\text{minute}}$ noise emission level resulting from the use and operation of the child care centre, with the exception of noise emission from outdoor play, shall not exceed the background noise level by more than 5dB when measured at the most reasonably affected point at or within any residential premises. This includes the noise emission resulting from:
 - a. Indoor play;
 - b. Mechanical plant;
 - c. Drop off and pick up;
 - d. Other activities/operations (not including outdoor play).
2. The number of children (by age) playing simultaneously in the outdoor play area at any one time must not exceed the maximum numbers detailed below:
 - a. Outdoor Play Scenario 1:
 - i. 20 children aged 0-2 years old in the ground floor outdoor play area; and
 - ii. 30 children aged 2-3 years old in the ground floor outdoor play area; and
 - iii. Up to 10 children aged 3-5 (passive play only) in the designated Level 1 passive play area between Playrooms 5 and 6.

OR

b. Outdoor Play Scenario 2:

- i. 20 children aged 3-5 years old in the level 1 outdoor play area; and
- ii. Up to 10 children aged 3-5 (passive play only) in the designated ground floor passive play area adjacent to Playroom 4.

3. No amplified music is permitted within the outdoor areas.

Reason: To protect the acoustic amenity of the local area.

97. Compliance with Plan of Management

All control measures and procedures nominated in the approved Plan of Management must be implemented and maintained.

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

98. Restriction on Childcare - Number of Children

No more than 110 children are permitted to be cared for at the Childcare Centre at any given time.

Reason: To limit the total number of children in accordance with the approval.

99. Maintenance of Acoustic Fences and Barriers

All Acoustic barriers, including boundary fencing, must be maintained for the duration of the development. Responsibility for the maintenance of all acoustic barriers, including boundary fences, is the sole responsibility of the owner of the development, and shall continue in perpetuity should the premises be sold in the future, unless otherwise approved by Council.

Reason: To protect the amenity of the local area.

100. 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.

101. Commercial Waste Management

During occupation and use, the management of waste must be in accordance with the following requirements:

1. All commercial tenant(s) must keep written evidence on site of a valid and current contract with a licensed waste contractor(s) for the regular collection and disposal of the waste and recyclables that are generated on site. The contract must include a detailed description of the collection process which aligns with the submitted Operational Waste Management Plan and consent conditions. The contract must stipulate that services will only take place during the approved collection times. Where applicable, specialist waste collection contractors must be engaged to collect and lawfully dispose of hazardous and special wastes, hygienic sanitary waste, liquid waste (e.g. waste oil), clinical and sharps

waste, etc. A copy of the contract(s) must be provided to relevant authorities including Council officers on request.

2. Waste collection services must take place onsite using a small rigid vehicle with height under 2.4m. The small rigid waste collection vehicle must enter the site in a forward direction, drive to the bin collection/loading bay, empty the bins, turn around and exit the site in a forward direction. Bins must not be presented on the verge for collection.
3. Waste collection services must only take place between 6:00AM to 8:00PM Monday to Friday, or 8:00AM to 8:00PM on weekends and public holidays.

Note: Time-of-day service restrictions apply to commercial developments located near residential areas.

4. The Plan of Management for the site and tenancy agreements must specifically include the management of waste generated on site, litter and dumped rubbish. The tenant must be responsible for the prompt removal of litter and dumped rubbish.

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

5. A Work, Health & Safety (WHS) risk assessment is to be carried out by a suitably qualified person with qualifications in Work, Health & Safety Legislation with specific regard to waste management. The recommendations of the WHS Risk Assessment are to be implemented as required.
6. All waste and recyclables must be stored within bins. Waste must not be placed on, around or under bins.
7. All commercial tenant(s) must have a sufficient number of bins to contain the volume of waste and recycling expected to be generated between collection services.
8. The lid of each bin must be kept closed at all times, other than when waste is being deposited. Bins must not be overfilled.
9. Bins must be serviced to prevent overflow.
10. No waste storage containers are to be located or placed outside of the approved waste storage areas at any time except for collection purposes. Bins must not be stored where they are visible from the street.
11. Bins must be secured to prevent unauthorised use and stop third party dumping inside the bins.
12. The bin storage and surrounding areas must be regularly cleaned and maintained in a clean and tidy condition at all times.
13. Missed collection services must be promptly communicated to the waste collection service provider and an alternative collection service scheduled to take place as soon as possible.
14. Adequate signage is to be provided and maintained on how to use the waste management system and what materials are acceptable for recycling within all waste storage areas of the development. Signage is also to be provided and maintained which clearly identifies which bins (and containers) are to be used for general waste, food

- organics waste and recycling and what materials can be placed in each bin. Signage is also to be provided in locally appropriate culturally and linguistically diverse (CALD) community languages.
15. Bin washing must only take place within the property boundaries. Bin washing must not take place on Council's verge. Waste water from bin washing and bin storage room cleaning must not be permitted to enter any stormwater drain.
 16. The land and adjoining areas are to be kept in clean and tidy conditions at all times.
 17. All surfaces trafficable by the waste collection vehicle must be kept in good and substantial repair.
 18. Vegetation adjacent to the driveway/accessway/roadway must be regularly pruned to maintain a 3.5m vertical clearance over the driveway/accessway/roadway and to ensure the vegetation does not encroach on the vehicular travel path.
 19. The property owner, business owner or manager or their authorised representative, must explain to all new employees and tenants their waste management roles and responsibilities and the waste management policies and procedures of the site. This must be done within 5 working days of staff taking up employment in the development. Records of this training must be maintained and provided to Council upon request. This includes but is not limited to the following, as applicable:
 - a. an explanation and demonstration of how to dispose of each type of waste. Waste types may include items for supplier take back schemes (e.g. crates, pallets), recyclables (e.g. paper/cardboard, plastic packaging, plastic containers, metals), activity specific wastes (e.g. medical waste, food waste), liquid wastes (e.g. waste oil), bulky waste (e.g. broken furniture), other wastes (e.g. printer cartridges, batteries, textiles), and general waste.
 - b. an explanation of the purpose of the different container types/bin colours.
 - c. an explanation of how to clean and separate out recyclables from general Waste items, including removing leftovers from food receptacles and a direction not to place recyclables in plastic bags.
 - d. a walk-through of all waste storage and collection facilities relevant to their roles and responsibilities.
 - e. an explanation of all relevant signage.
 - f. an explanation of how bulky waste is managed and how/when/where such items are to be presented for collection.
 - g. any relevant written information/educational flyers from the relevant collection contractor.
 - h. direction to sources of additional information such as Council's website; and
 - i. an explanation and demonstration of how bins are to be presented for collection (if relevant).
 20. In these consent conditions, recycling and recyclables refers to all waste streams that are recycled (including but not limited to mixed recycling (glass and plastic bottles, steel

and aluminium cans etc), paper/cardboard, food organics, and garden organics) and are collected separately from general waste (garbage) that goes to landfill.

Reason: to ensure the efficient and effective on-going management of waste for the operational life of the development.

- END OF CONDITIONS -

ITEM 2