

CONSENT ORDER

COURT DETAILS

Court	Land and Environment Court of NSW
Class	1
Case number	2021/00030048

TITLE OF PROCEEDINGS

Applicant	TIC Investments NSW Pty Ltd ACN 163 756 803
Respondent	Hornsby Shire Council

PREPARATION DETAILS

Prepared for	Hornsby Shire Council , Respondent
Legal representative	Tony Pickup, Local Government Legal
Legal representative reference	TP:CC:210027
Contact name and telephone	Tony Pickup 02 4922 2307
Contact email	tonyp@lglegal.com.au

TERMS OF ORDER MADE BY THE COURT BY CONSENT

1. Leave is granted to the Applicant to rely upon the following amended plans and documents:-
 - (a) Architectural plans prepared by Gardner Wetherill Associates dated 14 June 2021, comprising the following plans:-
 - DA05 – G - Proposed Site Plan
 - DA06 – E - Demolition Site Plan
 - DA07 – E - Demolition Ground Floor Plan
 - DA10 – E - Easement Floor Plan
 - DA11 – G - Ground Floor Plan
 - DA12 - F - First Floor Plan
 - DA13 – F - Roof Plan
 - DA15 – F -Proposed Elevations
 - DA16 – D - Existing and Proposed Cheltenham Road Street Elevation
 - DA18 – F - Proposed Sections
 - DA26 – E - Finishes Schedule
 - (b) Stormwater Civil plans prepared by ACOR Consultants and dated 17 June 2021, being drawing numbers C1 – C12 – Revision H;
 - (c) Cut and fill diagram prepared ACOR Consultants dated 17 June 2021, being drawing D1 – Revision B;

- (d) Construction Management Plan prepared by Gardner Wetherill Associates and dated 9 June 2021 Revision B;
 - (e) Landscape Heritage Management Statement prepared by Taylor Brammer Landscape Architects dated June 2021;
 - (f) Landscape Analysis Plan prepared by The Gardenmakers dated 17 June 2021 being drawing number LAP01 – Revision F;
 - (g) Arborist's letter prepared by Selena Hannan Landscape Design dated 9 June 2021.
2. The Applicant is to pay the Respondent's costs thrown away pursuant to section 8.15(3) of the *Environmental Planning & Assessment Act 1979* as agreed in the sum of one dollar (\$1.00).
 3. The Appeal is upheld.
 4. Development Consent is granted to Development Application No 259/2020 for construction of a purpose-built addition to a dwelling house and change of use to a 70-place childcare centre with an at grade and basement carpark and associated landscaping at 181-183 Beecroft Road Cheltenham subject to the conditions set out in Annexure "A"

SIGNATURES

Applicant

TIC Investments Pty Ltd, Applicant consents.

Signature of legal representative _____

Name of legal representative Patrick O'Brien

Capacity Solicitor

Date of signature

Respondent

Hornsby Shire Council, Respondent consents.

Signature of legal representative _____

Name of legal representative Tony Pickup

Capacity Solicitor

Date of signature

SEAL AND SIGNATURE

Court seal

Signature

Capacity

Date made or given

Date entered

NOTICE

Subject to limited exceptions, no variation of a judgment or order can occur except on application made within 14 days after entry of the judgment or order.

Annexure A

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

Development Application No: DA/259/2020

Development: Construction of a purpose-built addition to a dwelling house and change of use to a 70-place childcare centre with an at grade and basement carpark and associated landscaping.

Site: Lot 79 DP 9085, Pt Lot 80 DP 9085, Lot 82 DP 9085 being 181-183 Beecroft Road, Cheltenham

The above development application has been determined by the grant of development consent subject to the conditions specified in this consent.

Date of determination: [to be included]

Date from which consent takes effect: Date of determination.

TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as Lot 79 DP 9085, Pt Lot 80 DP 9085, Lot 82 DP 9085 being 181-183 Beecroft Road, Cheltenham.

The conditions of consent are as follows:

DA/259/2020 – 181-183 Beecroft Road, Cheltenham

Schedule 1

Draft Without Prejudice Conditions of Consent

GENERAL CONDITIONS

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

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

1. Approved Plans and Supporting Documentation

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

<i>Plan No.</i>	<i>Plan Title</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Council Reference</i>
DA05 - G	Proposed Site Plan	Gardner Wetherill Associates	15/06/2021	
DA06 - E	Demolition Site Plan	Gardner Wetherill Associates	15/06/2021	
DA07 - E	Demolition Ground Floor Plan	Gardner Wetherill Associates	15/06/2021	
DA10 - E	Basement Floor Plan	Gardner Wetherill Associates	15/06/2021	
DA11 - G	Ground Floor Plan	Gardner Wetherill Associates	15/06/2021	
DA12- F	First Floor Plan	Gardner Wetherill Associates	15/06/2021	
DA13 - F	Roof Plan	Gardner Wetherill Associates	15/06/2021	
DA15 - F	Proposed Elevations	Gardner Wetherill	15/06/2021	

<i>Plan No.</i>	<i>Plan Title</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Council Reference</i>
		Associates		
DA16 - D	Existing and Proposed Cheltenham Road Street Elevation	Gardner Wetherill Associates	15/06/2021	
DA18 - F	Proposed Sections	Gardner Wetherill Associates	15/06/2021	
DA26 - E	Finishes Schedule	Gardner Wetherill Associates	15/06/2021	
AKD 000B	Kitchen Plan	Alexandra Kidd Design	25/09/2020	
LAP01 - F	Landscape Analysis Plan	The Gardenmakers	17/06/2021	

<i>Document Title</i>	<i>Prepared by</i>	<i>Dated</i>	<i>Council Reference</i>
Cut and Fill Diagram (D1 – B)	ACOR Consultants	17/06/2021	D08189110
Stormwater Civil Plans (C1- C12 – H)	ACOR Consultants	17/06/2021	D08189107
Revised DA Acoustic Assessment (20201259.2)	Acoustic Logic	7/12/2020	D08071519
Acoustic Response (20201259.2/3101A/R1/HC)	Acoustic Logic	22/01/2021	D08096093
Construction Management Plan (19041 – B)	Gardner Wetherill Associates	09/06/2021	D08192170
Operational Waste Management Plan	Waste Audit and Consultancy Services	06/2021	D08192171
Demolition and Construction Management Plan	Waste Audit and Consultancy Services	03/2020	D07896232
Arboricultural Impact Assessment	Selena Hannan Landscape Design	17/03/2020	D07896230
Arborist Letter	Selena Hannan Landscape Design	9/06/2021	D08184929
Landscape Heritage Management Statement (20-129)	Taylor Brammer Landscape Architects	06/2021	D08189104
SIDRA Capacity Analysis	Varga Traffic Planning	09/11/2020	D08071541

Document Title	Prepared by	Dated	Council Reference
(18356)			
Traffic and Parking Assessment (18356)	Varga Traffic Planning	11/03/2020	D07904603
Management Plan	Ian Glendenning	02/02016	D08071531
Access Report (19211 - B)	Vista Access Architects	03/12/2020	D08071518
Geotechnical Investigation (31972Zrpt Rev2)	JK Geotechnics	04/12/2020	D08071522
Preliminary Site Investigation (E2019-1-A)	Geotechnical Consultants Australia	12/03/2020	D07896251
Hazardous Material Survey (E2020-1-A)	Geotechnical Consultants Australia	21/02/2020	D07896241
Ambient Air Quality Assessment (E2019-1)	Geotechnical Consultants Australia	21/02/2020	D07896227

2. Amendment of Plans

- a) The approved plans are to be amended as follows
 - i) The accessway (including the site entry/exit, driveway, ramp, basement entry, vehicle turning areas, loading bay) used by the waste collection vehicle must be designed in compliance with *Australian Standard AS2890.2 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities* for a small rigid vehicle. This includes, a minimum vertical clearance of 2.4m for the entry into the basement, maximum gradient of 1:6.5 for forward movements and 1:8 for reverse movements and minimum loading bay dimensions of 3.5m x 6.4m. Allow a further 1.6m behind the truck for the bin lift operations.
- b) The amended plans must be submitted to with an application for the construction certificate.

3. Amendment of Plan of Management

- a) The Plan of Management prepared by Ian Glendenning Planning Pty Ltd dated February 2016 must be amended as follows:
 - i) Section 2.2 shall be amended to state the correct break down of children age and number in accordance with the 'Playroom Number and Age Distribution of Children' as specified in this consent.

Playroom	Child Age	Maximum No. of Children
Playroom 1	0-1 years	15
Playroom 2	1-2 years	15

Playroom 3	2-3 years	20
Playroom 4	3-6 years	20

- ii) Section 2.5 shall be amended to state the use of the outdoor play areas of the Child care Centre shall be in accordance with the 'Outdoor Play Area Schedule' as specified in this consent and use of the indoor play areas shall be in accordance with the 'Playroom Number and Age Distribution of Children' as specified in this consent
- iii) Section 2.5 shall be amended to state that use of the indoor play areas of the Child care Centre shall be in accordance with the **Playroom Number and Age Distribution of children.**

4. Section 7.12 Development Contributions

- (a) In accordance with Section 4.17(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 7.12 Development Contributions Plan 2019 - 2029*, \$18,378.00 must be paid towards the provision, extension or augmentation of public amenities or public services, based on development costs of \$1,837,800.
- (b) The value of this contribution is current as of 24 June 2021. 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.

- (c) The monetary contributions shall be paid to Council:

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

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

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

5. Removal of Existing Trees

- a) This development consent permits the removal of trees numbered 3, 5, 13, 14, 16, 17, 18, 19, 20, 21 and 22 as identified on pages 43 and 44 of Appendix D and E contained in the Arboricultural Impact Assessment prepared by Selena Hannan dated 17/3/2020.
- b) Trees 27x2, 28, 29 and 30 must be re-located as per the Proposed Site Plan prepared by Gardner Wetherill Associates date 15/06/2021.
- c) No consent is granted for the removal of trees numbered 4, 6, 7, 8, 9, 10, 11, 12, 15, 23, 24, 25 and 26 as these trees contribute to the established heritage garden.

Note: The removal of any other trees requires separate approval in accordance with the Tree and Vegetation Chapter 1B.6 Hornsby Development Control Plan 2013 (HDCP).

6. Construction Certificate

- a) A Construction Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any construction works under this consent.
- b) A separate Works Certificate must be obtained from Council for all works within the public road reserve under S138 of the *Roads Act*.
- c) The Construction Certificates plans must be consistent with the Development Consent plans.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE
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*.

8. Fire Safety

To ensure the protection of persons using the existing building and to facilitate egress from the building in the event of a fire, the application for a construction certificate must demonstrate that the existing building will be provided with fire services and equipment in accordance with *Section E of the National Construction Code – Building Code of Australia*.

Where the existing floor, wall and ceiling linings of the existing building do not comply with Section C1.9 and Spec C1.1 of the *National Construction Code – Building Code of Australia* they shall be replaced or alternatively retained by means of a performance solution that addresses the relevant performance provisions of the Building Code.

9. Fire Safety Schedule

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

10. Accessibility

The construction certificate plans must be certified by an accredited access consultant in accordance with the recommendations and the requirements for ongoing design detailed in the access report prepared by Vista Access Architects.

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 via on site detention and water quality treatment systems and 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:

- a) Connected to an existing Council pipe through a pit within Cheltenham Road with the following requirements:
 - i) 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;

*Note: An inspection booking can be made by calling Council on 9847 6760 quoting the Application reference number commencing **SD***

- ii) A Traffic Control Plan (TCP) must be submitted for works within the Road and prepared by a qualified traffic controller in accordance with the Roads & Traffic Authority's *Traffic Control at Worksites Manual 1998* and *Australian Standard AS1742.3* for all work on a public road.
- iii) 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;
- iv) Prior to the issue of an Occupation Certificate a Compliance Certificate must be obtained from Council for the connection to Council's drainage system.

12. On Site Stormwater Detention

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

- a) Storage capacity to accommodate volume from up to 20 years ARI (average recurrence interval) storms and a maximum discharge (when full) limited to 5 years pre development rate.
- b) Have a surcharge/inspection grate located directly above the outlet. Discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.
- c) If an above ground system is proposed and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs are to be installed.
- d) Detail calculations are to be shown in construction certificate plan.
- e) An overflow/escape path shall be incorporated in the design.

13. [Deleted]

14. Internal Driveway/Vehicular Areas

The driveway and parking areas on site must be designed, constructed and a Construction Certificate issued in accordance with *Australian Standards 2890.1, 2890.2 and 3727* and the following requirements:

- a) Design levels at the front boundary shall be obtained from Council.
- b) The driveway be a rigid pavement with the exception of the bound gravel paving at the front of the site.

- c) Longitudinal sections along both sides of the access driveway shall be submitted to the principal certifying authority in accordance with the relevant sections of AS 2890.1.

15. Road Works

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:

- a) Any damaged footpath along the Beecroft Road or Cheltenham Road frontage must be replaced.
- b) Damaged kerb and gutter along both frontages shall be replaced.
- c) A construction certificate application is to be submitted to Council for approval of the works.

16. Work Zone

All construction vehicles associated with the proposed development are to be contained on site or in a Local Traffic Committee (LTC) approved "Works Zone" along with the following requirements:

- a) 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.
- b) 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'.
- c) The applicant is required to supply a sign posting installation plan for referral to the Local Traffic Committee, noting on it the duration of the Works Zone.
- d) 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.

17. Pedestrian Access Management Plan

A Pedestrian Access Management Plan (PAMP) detailing how pedestrian movements will be changed and managed during various stages of development, particularly during any partial or total closure of footpaths. Council will review the PAMP, agree any modifications with the proponent and enforce the PAMP during construction.

18. Appointment of a Project Arborist

- a) To ensure the trees that must be retained are protected, a project arborist with AQF Level 5 qualifications must be appointed to provide monitoring and supervision of the site throughout the construction period.
- b) Details of the appointed project arborist must be submitted to Council and the PCA with the application for the construction certificate.

19. Sydney Water

- a) An application must be submitted to Sydney Water to determine if a grease trap or alternative solution is required in order to meet the "*Guidelines for the On-Site Pre-Treatment of Trade Wastewater Discharges*" – Sydney Water (May 2004).
- b) Prior to the issue of a construction certificate, Sydney Water's determination regarding the installation of a grease trap or alternative solution must be provided to the principal certifier.

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

20. Electrical Kiosks and Fire Booster

Electrical kiosks and fire booster assemblies must be located in unobtrusive locations away from vehicle and pedestrian entrances to the property. The utilities must be softened by a built screen and/or landscaping so as not to impact on the streetscape.

21. Certification of Acoustic Report

Prior to the issue of a Construction Certificate, a Certificate from an appropriate qualified acoustic consultant is to be submitted to the Principal Certifying Authority (PCA) certifying that the plans are capable of complying with the recommendations contained within the Acoustic Assessment report prepared by Acoustic Logic dated 7/12/2020, Report No. 20201259.2.

22. Retaining Walls

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

23. Waste Management Details

The following waste management requirements must be complied with:

- a) Should there be any conflict or confusion between approved plans and/or consent conditions related to the waste management system or the waste collection vehicle travel path on site, then written clarification must be obtained from Council.
- a) The approved on-going waste management system must not be amended without the written consent of Council.
- b) There must be no steps along any bin carting route. Ramps and service lifts are acceptable.
- c) A design certificate and detailed plans are to accompany any Construction Certificate application, which demonstrate that all waste storage room(s) have been designed to be constructed in accordance with the Waste Minimisation and Management Guidelines and including the following requirements:

- i) The floor is to be constructed of concrete at least 75mm thick and adequately graded to drain to a Sydney Water approved drainage fitting;
 - ii) The floor must be finished so that it is non-slip, sealed and impervious, and has a smooth and even surface coved at all intersections;
 - iii) The ceilings and walls must be finished with smooth faced non-absorbent material capable of being cleaned;
 - iv) The room is to be provided with artificial light controllable within the room and adequate ventilation;
 - v) The room is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
 - vi) The doors are to be robust and lockable, with a door width of no less than 960mm. The doors must be able to be opened from inside the room without a key.
 - vii) The room is to have sufficient space to comfortably house the required number of bins and aisle space to access and manoeuvre these bins with every bin being accessible (no stacking of bins 2 or more deep);
- d) The access way (including site entry/exit, driveway, ramp, basement entry, vehicle turning areas, loading bay) to be used by waste collection vehicles, must be designed in compliance with *Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities for small rigid vehicles*.
- e) A design certificate from a qualified traffic engineer and detailed plans are to accompany the Construction Certificate application that confirms that the waste can be directly collected from the basement level as detailed in the Waste Management Plan and the Traffic Report. The design certificate is to specifically confirm that the:
 - i) Waste collection vehicle is able to enter the site in a forward direction, adequately manoeuvre into position near the bins, load bins and exit the site in a forward direction
 - ii) Vertical clearance of 2.4m for the entry to the basement.
 - iii) The installation of ceiling mounted cable trays, pipes, ducting, lights, signs etc will not reduce the vertical clearance of the entry to the basement to less than 2.4m.
 - iv) The waste collection vehicle must be able to manoeuvre in the basement with limited need for reversing
 - v) 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
 - vi) The vehicle ground clearance is sufficient to prevent scraping
 - vii) All pavement has been designed to carry the load of the small rigid vehicle.

- f) A Waste Management Plan Section One – Demolition Stage and Section Three – Construction Stage, covering the scope of this project and including the following details, is required to be submitted to Council:
- i) An estimate of the types and volumes of waste and recyclables to be generated;
 - ii) A site plan showing sorting and storage areas for demolition and construction waste and the vehicle access to these areas;
 - iii) How excavation, demolition and construction waste materials will be reused or recycled and where residual wastes will be disposed;
 - iv) The total percentage (by weight) of demolition and construction waste that will be reused or recycled.

Note: the site(s) to which the waste materials are taken must be legally able to accept those wastes.

24. Photographic Archival Record

- a) A photographic record of the heritage listed property (house and garden) at No. 181-181 Beecroft Road, Cheltenham must be undertaken prior to the commencement of works.
- b) The photographic record should be generally undertaken in accordance with Heritage NSW guidelines and 1 complete 'hard' and electronic copy submitted to Council's Strategic Land Use Planning Branch.
- c) The photographic and measured drawing record shall include (but not limited to) an accurate record of the exterior and interior of the building and the main garden elements within its curtilage.
- d) Satisfaction of this condition shall be confirmed by written advice by Council's Land Use Strategic Planning Branch prior to the issue of the construction certificate.

25. Nominated Heritage Consultant

- a) An architect/consultant suitably experienced in heritage conservation work shall be appointed prior to the commencement of works.
- b) The appointed architect/consultant shall ensure that all work is carried out in accordance with the approved documentation and conditions of consent and that any effect on the heritage significance of the garden and building is minimised.

26. Nominated Heritage Landscape Architect

- a) A Landscape architect suitably experienced in heritage conservation work with specialisation in interwar gardens in Sydney shall be appointed prior to the commencement of works.
- b) The appointed landscape architect shall ensure that all landscape work is carried out in accordance with the approved documentation and conditions of consent and that any effect on the heritage significance of the garden is minimised.

27. Design Details

- a) The detailed internal and external design plans for the existing dwelling are to be prepared in consultation with the Nominated Heritage Consultant.

28. Noise – Busy Roads

The development must be carried out in accordance with the recommendations contained within the *Revised Acoustic Assessment Report*, prepared by N G Child & Associates, dated 23/4/21, reference 230421 (Version 2) (TRIM: D08172373)

29. Construction Management Plan

To assist in the protection of the public, the environment and Council's assets, a separate Construction Management Plan (CMP) must be prepared by a suitably qualified environmental consultant in consultation with a qualified traffic engineer and AQF Level 5 arborist and submitted to Council's Compliance Team at: <https://www.hornsby.nsw.gov.au/property/build/applicationforms> for review and approval. The CMP must include the following details:

- a) A Construction Traffic Management Plan (CTMP) prepared by a qualified traffic engineer in compliance with the requirements of the Roads and Maritime Services *Traffic control at work sites Manual 2018* that is consistent with all other required CMP plans and includes the following:
 - i) The order of construction works and arrangement of all construction machines and vehicles on site during all stages.
 - ii) Traffic controls including those used during non-working hours.
 - iii) Pedestrian and cyclist access and safety demonstrating that two-way traffic in the public road will always be facilitated .
 - iv) 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.
 - v) Proposed truck routes to and from the site including details of the frequency of truck movements for all stages of the development.
 - vi) Swept path analysis for ingress and egress of the site for all stages of works.
 - vii) A schedule of maximum truck movements on any given day and during peak commuter periods for all stages of works as follows:

Stage	Max. # trucks/ day	Vehicle type/s i.e., SRV, MRV, HRV	Largest vehicle type and length in metres	Time-frame
Demolition				

Excavation				
Construction				
Fit-out				

Period	No. trucks/period	Vehicle type/s during period	Largest vehicle type and length in metres
Morning peak commuter period			
Afternoon/evening peak commuter period			

- viii) The source site location of any proposed fill to be imported to the site, for all stages of works.
- ix) The Plan must include statements confirming the following:
 - I. Building materials, work sheds, vehicles, machines and the like will not be allowed to remain in the road reserve area without the written consent of Hornsby Shire Council.
 - II. An application to Hornsby Shire Council will be made to obtain any required Out of Hours, partial Road Closure, Work Zone (if permitted) and Crane Permits, the Plan must detail these requirements.
 - III. A Road Occupancy Licence (ROL) will be obtained from Transport Management Centre for any works that may impact on traffic flows on Beecroft Road during construction activities.
 - IV. All vehicles will enter and leave the site in a forward direction and that all demolition and construction vehicles will be contained wholly within the site;
 - V. A street 'scrub and dry' 'street-sweeping' service will be in operation during all stages of works.
 - VI. The applicant and all employees of contractors on the site will obey any direction or notice from the Prescribed Certifying Authority or Hornsby Shire Council to ensure compliance with the approved CTMP.
- b) Separate Construction Site Management plans for each stage of works (demolition, excavation and construction) showing the following:
 - i) Site sheds, concrete pump and crane locations, unloading and loading areas, waste and storage areas, ablutions facilities, existing survey marks, vehicle entry and turning areas, surrounding pedestrian footpaths and proposed hoarding (fencing) locations.

- ii) Tree protection zones (TPZ) and structural root zones (SRZ) of trees required to be retained and specific details of required tree protection measures inclusive of distances (in metres) measured from tree trunks.
 - iii) Sediment and erosion control measures.
- c) A Construction Waste Management Plan detailing the following:
 - i) 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.
 - ii) Asbestos management procedures.
 - iii) General construction waste details including construction waste skip bin locations and litter management for workers.
- d) A Construction Noise and Vibration Management Plan (CNMP) which includes and assessment of existing ambient noise and vibration levels within the vicinity of the site and including:
 - i) Details of the extent of rock breaking or rock sawing works forming part of the proposed development works.
 - ii) The maximum level of noise and vibration predicted to be emitted during each stage of works.
 - iii) Details of the site specific noise mitigation measures, inclusive of respite periods, that will meet acoustic standards and guidelines at each stage of works.
 - iv) Details of a complaints handling process for the surrounding neighbourhood for each stage of works.
- e) **Deleted.**

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

30. Erection of Construction Sign

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

31. Protection of Adjoining Areas

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

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

32. Toilet Facilities

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

33. Erosion and Sediment Control

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

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

34. Installation of Tree Protection Measures

- a) Trees to be retained and numbered 4, 6, 7, 8, 9, 10, 11, 12, 15, 23, 24, 25 and 26 as identified on the Tree Location Plan prepared by Selena Hannan, dated 17/3/2020 (TRIM: D07896230) must have tree protection measures for the ground, trunk and canopy installed by the project arborist as follows:

- i) For the duration of construction works, in accordance with Tree Protection Plan prepared by Selena Hannan, dated 17/3/2020 (TRIM: D07896230)
- b) Tree protection fencing for the trees to be retained numbered 4, 6, 7, 8, 9, 10, 11, 12, 15, 23, 24, 25 and 26 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*.
- c) 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.

35. 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.

36. Garbage receptacle

- a) A garbage receptacle must be provided at the work site before works begin and must be maintained until all works are completed.
- a) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
- b) The receptacle lid must be kept closed at all times, other than when garbage is being deposited.
- c) Food scraps must be placed in the garbage receptacle and not in demolition and construction waste bins.

37. Significant Interior Features

All original and early features within the house such as ceilings, arches and decorative mouldings, floor boards, timber joinery and glazing are to be retained during demolition and protected in situ from damage for extent of new building works.

Any original existing doors required to be removed shall be set aside, protected and returned to client at completion for their storage.

37A. Dilapidation Report

A 'Dilapidation Report' is to be prepared by a 'chartered structural engineer' detailing the structural condition of the existing dwelling 183 Beecroft Road, Cheltenham and adjoining property 50 Cheltenham Road, Cheltenham before the commencement of works.

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION

38. Construction Work Hours

All works on site, including demolition and earth works, must only occur between 7am and 5pm Monday to Saturday.

No work is to be undertaken on Sundays or public holidays.

39. Environmental Management

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

40. Council Property

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

41. 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:

- a) 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
- b) 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
- c) 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.

42. Excavated Material

Any excavated material removed from the site must be classified by a suitably qualified person in accordance with the Department of Environment, Climate Change and Water NSW *Waste Classification Guidelines* and *Protection of the Environment Operations (Waste) Regulation 2014* prior to disposal to an approved waste management facility and be reported to the principal certifying authority prior to the issue of an Occupation Certificate.

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 PCA and Council.

44. Landfill not Permitted

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

45. 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.

46. Compliance with Construction Management Plan

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

47. Street Sweeping

During works 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.

48. Geotechnical Report

The recommendations of the Geotechnical Investigations Report prepared by JK Geotechnics must be complied with throughout the construction and demolition phase of the development.

48A. Requirements during excavation

- a) In accordance with the recommendations of the *Geotechnical Investigation Report*, prepared by JK Geotechnics Pty Ltd, dated 4 December 2020, reference No: 31972Z Rev2 (TRIM: D08100971), ("the *Geotechnical Investigation Report*") hydraulic impact rock hammers must be used for the following excavation activities:
 - i) All excavations to low and higher strength sandstone;
 - ii) Trimming rock excavation side slopes, and
 - iii) Detailed rock excavations, including for footings and below ground services.
- b) All excavation with hydraulic impact rock hammers shall be carried out in accordance with the Excavation Techniques details in Section 4.1.2 of the *Geotechnical Investigation Report*.

49. Survey Report

A report(s) must be prepared by a registered surveyor and submitted to the principal certifying authority:

- a) Prior to the pouring of concrete at each level of the building certifying that:
 - i) The building, retaining walls and the like have been correctly positioned on the site; and
 - ii) The finished floor level(s) are in accordance with the approved plans.
- b) Boundary fencing is located on the property boundary.
- c) Prior to the pouring of the concrete driveway and ramp to the basement level that is to be used by the small rigid waste collection vehicle, certifying that: the gradient of the finished pavement will be no greater than 15.4% (1:6.5).
- d) Prior to the pouring of any concrete support columns on the basement level, certifying that: no support columns are positioned within the approved travel path of the waste collection vehicle; and
- e) Prior to the pouring of any concrete on the ground level, certifying that: the floor to ceiling height for the basement level entry will be no less than 2.4 metres including any roller doors or overhead cables.

50. Waste Management Details

Requirements of the approved Waste Management Plan shall be complied with during all site preparation works, demolition and throughout all construction works. When implementing the Waste Management Plan, the developer is to ensure:

- a) The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the *Protection of Environment Operations Act 1997*
- b) All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*
- c) Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW
- d) All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it
- e) All materials and resources that are to be stored on site during construction works are contained on the site. The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses
- f) The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the

storage of any waste and must be kept clear of obstructions during all construction works

g) Additionally, written records of the following items must be maintained during the removal of any waste from the site and such information submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works:

- i) The identity of the person removing the waste.
- ii) The waste carrier vehicle registration.
- iii) Date and time of waste collection.
- iv) A description of the waste (type of waste and estimated quantity).
- v) Details of the site to which the waste is to be taken.
- vi) The corresponding weighbridge tip docket/receipt from the site to which the waste is transferred (noting date and time of delivery, description (type and quantity) of waste).
- vii) 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.

51. Maintenance of public footpaths

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.

52. 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:

- a) Soil cutting or filling, including excavation and trenching
- b) Soil cultivation, disturbance or compaction
- c) Stockpiling storage or mixing of materials
- d) The parking, storing, washing and repairing of tools, equipment and machinery
- e) The disposal of liquids and refuelling
- f) The disposal of building materials
- g) The siting of offices or sheds
- h) Any action leading to the impact on tree health or structure

53. [Deleted]

54. Maintaining Tree Protection Measures

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

55. Approved Works within Tree Protection Zone incursions

- a) 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:
 - i) Using sharp secateurs, pruners, handsaws or chainsaws with the final cut being clean.
 - ii) The maximum diameter of roots permitted to be cut is 50mm.
- b) The replacement driveway must be constructed using the following process:
 - i) Demolition must be done manually using small plant machinery only, no larger than a jackhammer.
 - ii) The sub-grade must be raised by 100mm using gap-graded material in accordance with *Australian Standards AS4419-2003 Soils for landscaping and garden use*.
- c) The new driveway must be constructed using the following process:
 - i) To minimise soil compaction the proposed driveway must be built above grade using sensitive construction techniques.
 - ii) To minimise soil compaction all imported material in the vicinity of the replacement driveway must be distributed by hand.
- d) No changes of grade within the Tree Protection Zone of trees to be retained numbered 4, 6, 7, 8, 9, 10, 11, 12, 15, 23, 24, 25 and 26 on the approved plans, are permitted.
- e) To minimise impacts within the Tree Protection Zone (TPZ) of trees numbered 4, 6, 7, 8, 9, 10, 11, 12, 15, 23, 24, 25 and 26 on the approved plans, the installation of services must be undertaken as follows:
 - i) The AQF 5 project arborist must be present to oversee the installation of any underground services which enter or transect the tree protection.
 - ii) The installation of any underground services which either enter or transect the designated TPZ must be undertaken manually.
 - iii) 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.
- f) Where scaffolding is required, ground protection must be installed beneath the scaffolding in the following order:
 - i) Installation of scaffold boarding above the woodchip and geotextile fabric.

56. Building materials and Site Waste

The stockpiling of building materials, the parking of vehicles or plant, the disposal of cement slurry, waste water 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.

57. Vehicular Crossing

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

- a) Design levels at the front boundary must be obtained from Council for the design on the internal driveway;
- b) The vehicular crossing must be minimum 5.5m wide.
- c) Any redundant crossings must be replaced with integral kerb and gutter;
- d) The footway area must be restored by turfing;
- e) Approval must be obtained from all relevant utility providers that all necessary conduits be provided and protected under the crossing

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.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCUPATION CERTIFICATE

58. Damage to Council Assets

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

59. Completion of Landscaping

A certificate must be submitted to the PCA by a practicing landscape architect, horticulturalist or person with similar qualifications and experience certifying that all required landscaping works have been satisfactorily completed in accordance with the approved landscape plans.

60. Asbestos Clearance Certificate

A licenced asbestos assessor is required to provide a Clearance Certificate to the 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.

61. Submission of Excavated Material Tipping Dockets to Principal Certifying Authority

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

62. [Deleted]

63. External Lighting

- a) To protect the amenity of adjacent premises, all external lighting must be designed and installed in accordance with *Australian Standard AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting*.
- b) Certification of compliance with this Standard must be obtained from a suitably qualified person and submitted to the Principal Certifying Authority with the application for the Certificate.

64. Signage

Prior to issue of the Occupation Certificate, the Principal Certifier shall be satisfied that clear and appropriately sized signage has been erected within the development site as follows:

- a) At all entry/exit points to the car park and building reminding staff and visitors to minimise noise all times in consideration of nearby resident.
- b) At the front entrance to the Child care Centre displaying the contact phone number for registering of any complaints regarding the Child care Centre operation.
- c) Within the outdoor play area of the Child care Centre as follows:
 - i) To 'Playspace 01', displaying the Outdoor Play Area Schedule as specified in this consent;
 - ii) To 'Playspace 02', stating the area must only be used by children 0-1 years old between the hours of 10 to 11 am and 2 to 3 pm and the number of children in the area at the same time must not exceed 15.
 - iii) To 'Playspace 03', displaying the Outdoor Play Area Schedule as specified in this consent.

65. Acoustic Certification

Prior to the issue of an Occupation Certificate, an Acoustic Compliance Certificate is to be prepared by a suitably qualified Acoustic Consultant and submitted to the Principal Certifying Authority and the Council. The Acoustic Compliance Certificate is to certify the following:

- a) The development has been constructed in accordance with the recommendations within *DA Acoustic Assessment*, prepared by Acoustic Logic, dated 7 December 2020, Project ID: 20181453.2, (TRIM: D08071519).
- b) Soft closure hinges have been installed to all self-closing gates.

- c) The noise level LAeq,1hr from road, rail traffic or industry at any location within the outdoor play area assessed during the hours of operation specified in this consent does not exceed 55 dB(A). Measurements shall be taken during the highest hourly traffic noise level during the hours of operation specified by this consent.
- d) The noise level LAeq,1hr from road noise does not exceed:
 - i) 35 dB(A) within sleeping areas;
 - ii) 40 dB(A) within internal play areas.

Shared indoor play/sleeping rooms shall meet the lower of the respective criteria. Measurements for sleeping rooms for children aged 1 to 6 years shall be taken during designated sleeping times and for children aged 0 to 1 years, during the highest hourly traffic noise level during the hours of operation specified by this consent.

Should the Acoustic Compliance Certificate identify any non-compliance issues, the Certificate is to provide suitable recommendations for mitigation of those issues which shall be implemented upon written approval by the Council.

66. Retaining Walls

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

67. [Deleted]

68. Food Handling/Kitchen

- a) 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*, the *Food Regulation 2015* 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.

Note: Walls are to be of solid construction.

- b) kitchen exhaust system must be designed and installed to effectively prevent air pollution in accordance with the Protection of the Environment Operations Act 1997.
- c) Prior to the commencement of the business, the operator is requested to contact Council's Regulatory Services Team to arrange a pre-opening inspection for compliance against the relevant legislation and guidelines outlined in this approval. Contact Council's Administration Officer on 9847 6724.

69. Preservation of Survey Marks

A certificate by a Registered Surveyor must be submitted to the Principal Certifying Authority, 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".

70. No Stopping Signs

'No stopping, 6AM-10AM, 3PM-7PM, Mon-Fri' signs are to be installed between the existing 'No Stopping' restrictions near the intersection of Beecroft Road with Cheltenham Road to the northern boundary of 181-183 Beecroft Road along both side of Cheltenham Road. A plan detailing the parking restrictions is to be submitted to Council and referral to the Hornsby Local Traffic Committee. Should the parking restrictions be approved, the signs are to be installed by the proponent at no cost to Council.

71. Creation of Easements

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

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

72. Completion of Works and Compliance Certificate

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

73. 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.

74. Waste Management Details

- a) Prior to an occupation certificate being issued or the use commencing, whichever is earlier, the principal certifying authority must ensure arrangements are in place for delivery of bins for the ongoing use of the site and for commercial waste collection services from the basement using a small rigid waste collection vehicle.

Note: Waste and recycling management facilities includes everything required for on-going waste management on the site. For example the bin storage areas, bin collection area, waste collection vehicle access, doors wide enough to fit the bin through, accessibility, bin carting routes etc.

- b) A report must be prepared by an appropriately qualified person, certifying the following:
- i) A comparison of the estimated quantities of each demolition and construction waste type against the actual quantities of each waste type.

Note: Explanations of any deviations to the approved Waste Management Plan is required to be included in this report

- ii) That at least 60% of the waste generated during the demolition and construction phase of the development was reused or recycled.

Note: If the 60% diversion from landfill cannot be achieved in the Construction Stage, the Report is to include the reasons why this occurred and certify that appropriate work practices were employed to implement the approved Waste Management Plan. The Report must be based on documentary evidence such as tipping dockets/receipts from recycling depots, transfer stations and landfills, audits of procedures etc. which are to be attached to the report.

- iii) All demolition and construction waste was taken to site(s) that were lawfully permitted to accept that waste.
- c) The bin carting routes must be devoid of any steps and must be wholly within the site.
- Note: Ramps between different levels are acceptable. The use of the public footpath is not acceptable.*
- d) Every kitchen must be provided with an indoor waste/recycling cupboard for the interim storage of waste with two separate 15-20 litre containers installed, one each for general waste and recyclable materials.
- e) The bin storage room at the basement level must include water or a hose for cleaning, graded floors with drainage to sewer, sealed and impervious surfaces, robust door(s), adequate lighting and ventilation, and must be lockable.
- f) A survey of the finished access way (including ramp, waste collection vehicle turning area, loading bay and site entry/exit) to be used by SRV waste collection vehicle, must be carried out by a registered surveyor and submitted to the principal certifying authority and to Council. The survey is to include dimensions, gradients and vertical clearance. 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 turning 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, vertical clearance, vehicle ground clearance).

- g) The access way (including ramp, vehicle turning area, loading bay and site entry/exit) to be used by waste collection vehicles, must be designed in compliance with *Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street Commercial Vehicle Facilities* for small rigid vehicles.
- h) The 2.4 metre clearance height for the basement entry must not be reduced by ducting, lights, pipes or anything else.
- i) “No parking” signs must be erected to prohibit parking in the waste collection loading bay and turning area on collection days.
- j) 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.

75. Final Certification

- a) The AQF 5 Project arborist must submit to the Principal Certifying Authority a certificate that includes the following:
- b) All tree protection requirements complied with the as approved tree protection plan for the duration of demolition and/or construction works and;
- c) All completed works relating to tree protection and maintenance have been carried out in compliance with the conditions of consent and approved plans and;
- d) Dates, times and reasons for all site attendance and;
- e) All works undertaken to maintain the health of retained trees and;
- f) Details of tree protection zone maintenance for the duration of works and;
- g) A statement to confirm that tree replacement planting meets NATSPEC guidelines and the approved landscape plan.

Note: Copies of monitoring documentation may be requested throughout DA process.

76. Fire Safety Statement – Final

In accordance with the Environmental Planning & Assessment Regulation 2000, upon completion of the building, the owner must provide Council with a certificate in relation to each fire safety measure implemented in the building.

OPERATIONAL CONDITIONS

77. Use of Premises

- a) The development approved under this consent must be used for the purpose of a ‘child care centre’ and not for any other purpose without Council’s separate written consent.

- b) The child care centre must accommodate a maximum of 70 children with the following ratios:
 - i) 0-2 years = 30 children
 - ii) 2-3 years = 20 children
 - iii) 3-5 years = 20 children

78. Hours of Operation

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

- a) Monday to Friday – 7:00am to 6:30pm

 Saturday, Sunday & Public Holidays No operation (other than for associated administrative uses).
- b) All deliveries and service vehicles must be carried out on between 9:30 am and 3:30 pm, Monday to Friday (excluding public holidays).
- c) All waste collection must be carried out within the hours of operation specified by this consent.
- d) Cleaning and maintenance activities outside of approved hours of operation must be restricted to Saturdays, between 7.00am to 6.00pm.

79. Delivery

Commercial deliveries to the site must not take place between 8PM and 6AM weekdays or 8PM and 8AM on weekends and public holidays.

80. Noise

- a) The cumulative noise generated by the development consisting of children playing indoors; mechanical plant (including Heating, Ventilation and Air conditioning, lift and audio systems), and traffic on the premises, when assessed as a Leq, 15 minutes at any reasonably most-affected point on or within any residential premises must not exceed 47dB(A). Where such noise being emitted to nearby residential premises possess tonal, beating or similar characteristics a correction factor of 5dB(A) shall be added to the measured level in accordance with the EPA's Noise Policy for Industry.
- b) All noise generated from use of the outdoor play area when assessed at any reasonably most-affected point on or within any residential premises must not exceed 47dB(A).

For purpose of this condition, the location of any 'reasonably most-affected point' shall be determined in accordance with Section 2.6 of the NSW Noise Policy for Industry.

81. Noise Management – General

- a) The distribution of children within the separate playrooms of the Child care Centre must be as follows:

Playroom Number and Age Distribution of Children		
Playroom	Child Age	Maximum No. of Children
Playroom 1	0-1 years	15
Playroom 2	1-2 years	15
Playroom 3	2-3 years	20
Playroom 4	3-6 years	20

- b) Use of the outdoor play spaces as identified on the Proposed Site Plan prepared by Gardner Wetherill Associates dated 17/06/2021, Drawing No. DA05, Revisions G (TRIM: D08189109) must be in accordance with the following schedule:

Outdoor Play Area Schedule			
Time	Playspace 01	Playspace 02	Playspace 03
8-9 am	20 x 2-3 year old	No use	No use
9-10 am	15 x 1-2 year old	No use	6 x 2-3 year old
10-11 am	20 x 3-6 year old	15 x 0-1 year old	3 x 3-6 year old
11-12 pm	No use	No use	No use
12-1 pm	No use	No use	No use
1-2 pm	15 x 0-1 year old	No use	No use
2-3 pm	20 x 2-3 year old	15 x 0-1 year old	No use
3-4 pm	15 x 1-2 year old	No use	6 x 2-3 year old
4-5 pm	20 x 3-6 year old	No use	3 x 3-6 year old

- c) Outdoor play areas must not be used before 8 am or after 5 pm.
- d) All doors must remain closed except during access and egress.
- e) All signage required to be installed as specified by this consent must be maintained all times.
- f) The complaint contact number displayed at the front entrance of the Child care Centre must be manned all times during the hours of operation specified in this consent.

- g) Any additional air-conditioning plant installed following occupation of the development must be selected and located such that the resultant cumulative noise emissions comply with the requirements of this consent.

82. Acoustic Certification – Operational

- a) Within a period of either Six (6) months of commencement of occupation OR within 1 month establishment of an enrolment of a minimum 85% of the total permitted capacity of 70 children of the Child care Centre, whichever occurs first, an acoustic analysis of the development is to be carried out by an independent acoustic consultant and a report submitted to Council demonstrating the following:
 - i. The cumulative noise generated by the development consisting of children playing indoors; mechanical plant (including Heating, Ventilation and Air conditioning, lift and audio systems), and traffic on the premises, when assessed as a Leq, 15 minutes at any reasonably most-affected point on or within any residential premises does not exceed 47dB(A). Where such noise being emitted to nearby residential premises possess tonal, beating or similar characteristics a correction factor of 5dB(A) shall be added to the measured level in accordance with the EPA's Noise Policy for Industry.
 - ii. All noise generated from use of all the outdoor play areas within the Child care Centre when assessed at any reasonably most-affected point on or within any residential premises does not exceed 47dB(A).

For purpose of this condition, the location of any 'reasonably most-affected point' shall be determined in accordance with Section 2.6 of the NSW Noise Policy for Industry.

Should the assessment find that noise from the premise exceeds the above criteria, recommendations for appropriate rectification measures must be provided in Acoustic Analysis Report submitted to Council.

- b) In the event the acoustic analysis reveals a breach of the criteria within Condition 82 a) ii. measures must be immediately implemented, either by an increase in staff supervision and/or reduction in numbers of children attending the site to ensure compliance. Upon remedial measures being implemented, further testing, within a period of eight weeks, must be carried out at an exact date/time unknown by the operators of the facility.
- c) All costs associated with the acoustic analysis, including any required additional monitoring, are to be borne by the owner of the development.
- d) 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.

83. Maintenance of Acoustic 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 into perpetuity should the premises be sold in the future, unless otherwise approved by Council.

84. Waste Management

The waste management on site must be in accordance with the following requirements:

- a) The approved Waste Management Plan is to be implemented throughout the ongoing use of the development.
- b) 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.
- c) Waste collection services must be carried out using a small rigid waste collection vehicle from the basement level.
- d) Waste collection services must not take place between 8PM and 6AM weekdays or 8PM and 8AM on weekends and public holidays.

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

- e) 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.
- f) The land and adjoining areas are to be kept in clean and tidy conditions at all times.
- g) All surfaces trafficable by the waste collection vehicle must be kept in good and substantial repair.
- h) Vegetation adjacent to the driveway/accessway/roadway must be regularly pruned to maintain a 2.5m vertical clearance over the driveway/accessway/roadway and to ensure the vegetation does not encroach on the vehicular travel path.

85. Noise – Plant and Machinery

The level of total continuous noise emanating from operation of all the plant, including air conditioning units and processes in all buildings (LA10) (measured for at least 15 minutes) in or on the above premises, must not exceed the background level by more than 5dB(A) when measured at all property boundaries adjoining residential land.

86. Landscape establishment

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

87. Car Parking

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 requirements:

- a) All parking areas and driveways are to be sealed to an all-weather standard, line marked and signposted;
- b) Car parking, loading and manoeuvring areas to be used solely for nominated purposes;
- c) Vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads;
- d) All vehicular entry on to the site and egress from the site shall be made in a forward direction.
- e) Parking spaces for staff members can only be used by staff, not for pick-up and drop-off by parents.
- f) All parking for people with disabilities is to comply with *AS/NZS 2890.6:2009 Off-street parking for people with disabilities*.
- g) Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath.

88. 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' certifying each essential service installed in the building.

- END OF CONDITIONS –

ADVISORY NOTES

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

Environmental Planning and Assessment Act 1979 Requirements

The *Environmental Planning and Assessment Act 1979* requires:

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

Long Service Levy

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

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

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

Tree and Vegetation Preservation

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

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

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

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

Covenants

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant

affecting the land would be breached by the construction of the building, the subject of this consent. Applicants must rely on their own enquiries as to whether or not the building breaches any such covenant.

Dial Before You Dig

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

Telecommunications Act 1997 (Commonwealth)

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

Asbestos Warning

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

www.environment.nsw.gov.au

www.adfa.org.au

www.safework.nsw.gov.au

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

Advertising Signage – Separate DA Required

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

Food Premises

The following facilities are required in the food preparation area to ensure food handler hygiene and the cleaning and sanitising of food contact utensils:

1. A hand wash basin and a double bowl sink or
2. A hand wash basin, washing up sink and a dishwasher.