

APPENDIX C - STATUTORY COMPLIANCE TABLE

BARKER COLLEGE SSD-31822612

Statutory Reference	Relevant Considerations	Relevance/Assessment	Compliance
Environmental Planning and Assessment Act 1979			
Section 1.3 Objects of Act	<i>To promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources</i>	<p>The proposal will provide state of art educational facilities which will promote the social welfare of the community.</p> <p>The proposal has been designed to conserve heritage significance of the site and will not adversely impact on the state's natural resources, including flora and fauna values.</p> <p>Subject to the various mitigation measures recommended by the specialist consultants as summarised in this EIS, the proposal does not have any unreasonable environmental or social impacts on adjoining properties or the public domain.</p>	The proposal is consistent with the objectives of the Act.
	<i>To facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</i>	The proposal has been carefully assessed in accordance with relevant economic, environmental and social considerations as discussed in Section 6 of the EIS.	
	<i>To promote the orderly and economic use and development of land</i>	The proposal represents the optimisation of the Barker campus to allow for orderly renewal of the campus and more economical use of the land.	
	<i>To protect the environment, including the conservation of threatened and other species</i>	A Biodiversity Development Assessment Report Waiver Request (Appendix Q) has been prepared by Cumberland Ecology which confirms that the development is not	

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	<i>of native animals and plants, ecological communities and their habitats</i>	likely to have any significant impact on biodiversity values of the site, including species of native animals and plants, ecological communities and their habitats.	
Section 4.15	<p>Relevant environmental planning instruments:</p> <ul style="list-style-type: none"> SEPP (Resilience and Hazards) 2021 SEPP (Planning Systems) 2021 SEPP (Transport and Infrastructure) 2021 SEPP (Industry and Employment) 2021 SEPP (Biodiversity and Conservation) 2021 Hornsby LEP 2013 	See detail below under State Environmental Planning Policies (SEPPs).	
	<i>Environmental Planning and Assessment Regulation 2021 – Part 8 Division 2</i>	This EIS has been prepared in accordance with Part 8 Division 2 of the Environmental Planning and Assessment Regulation 2021.	
	<p>Development control plans:</p> <ul style="list-style-type: none"> Hornsby Development Control Plan (HDCP) 	<p>Clause 2.10 of the Planning Systems SEPP states that development control plans (DCP) (whether made before or after the commencement of this Policy) do not apply to SSD.</p> <p>As such, there is no requirement for assessment of the proposal against the Hornsby Development Control Plan (Hornsby DCP) for this SSDA. Notwithstanding this, consideration has been given to the following chapters of the DCP within Section 6 of the EIS:</p>	

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		<ul style="list-style-type: none">Part 1 – GeneralPart 7 – CommunityPart 9 – Heritage	
	The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.	The likely impacts of the development including the environmental impacts on the natural and built environments, and social and economic impact on the locality are assessed in detail within the EIS.	Detailed impact assessment is contained in Section 6
	The suitability of the site for the development	<p>The suitability of the site for the development is discussed in Section 7.6.</p> <p>The site is entirely suitable for the development of the proposal as it continues the use of Barker College as an educational establishment. Barker has a historical association with the site having been located on the site since 1895. The proposal is therefore highly suitable for the site to maintain the ongoing presence of the School in the area. Accordingly, the proposal is considered entirely suitable for the development for education purpose and can accommodate the proposed increase in students.</p>	The site is suitable for the proposed development
	Any submissions made	Submissions will be considered following exhibition of the application.	
	The public interest	The public interest of the development is discussed in Section 7.7 .	
Environmental Planning and Assessment Regulation 2021			
Part 8 Division 2	Part 8 Division 2 of the EP&A Reg provides that environmental assessment requirements will be issued	This EIS has been prepared to address the requirements of Part 8 Division 2 of the EP&A Regulations and SEARs.	The proposal satisfies and is consistent with SEARs

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	by the Secretary with respect to the proposed EIS.		
Biodiversity Conservation Act 2016			
Section 7.14	The likely impact of the proposed development on biodiversity values as assessed in the Biodiversity Development Assessment Report (BDAR). The Minister for Planning may (but is not required to) further consider under that BC Act the likely impact of the proposed development on biodiversity values.	<p>A Biodiversity Development Assessment Report Waiver Request (Appendix Q) has been prepared by Cumberland Ecology which confirms that the development is not likely to have any significant impact on biodiversity values of the site, including species of native animals and plants, ecological communities and their habitats.</p> <p>A detailed biodiversity assessment is contained in Section 6.7 of the EIS.</p>	Yes
State Environmental Planning Policies			
State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP)			
Clause 15(2) of Schedule 1 of the Planning Systems SEPP provides that development for the purpose of educational establishments that has a CIV of more than \$50 million is classified as SSD.		The proposed works have an estimated CIV of \$121,480,394 excluding GST and accordingly, the proposal is SSD for the purposes of the Planning Systems SEPP.	Yes

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State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)			
Clause 2.121 applies to traffic generating developments as specified under schedule 3 of the SEPP and relates to: <ul style="list-style-type: none">▪ <i>new premises of the relevant size or capacity, or</i>▪ <i>an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.</i> <p>The proposed development fronts the Pacific Highway – a state road. Therefore the development is considered to be a traffic generating development, and requires written notice of the application to TfNSW within 7 days after the application is made.</p> <p>Therefore the development is considered to be a traffic generating development, and requires the following:</p> <p><i>Before determining a development application for development to which this section applies, the consent authority must—</i></p> <p><i>(a) give written notice of the application to TfNSW within 7 days after the application is made, and</i></p> <p><i>(b) take into consideration—</i></p>	Traffic impact associated with the proposed works are discussed in Section 6.6 of the EIS and assessed within the Traffic and Parking Assessment prepared by TTPP enclosed in Appendix N .	Yes	

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	<p><i>(i) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and</i></p> <p><i>(ii) the accessibility of the site concerned, including—</i></p> <p><i>(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and</i></p> <p><i>(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and</i></p> <p><i>(iii) any potential traffic safety, road congestion or parking implications of the development.</i></p>		
Part 3.4 of the Transport and Infrastructure SEPP identifies school specific development controls			
	<p>Clause 3.43 State significant development for the purpose of schools—application of development standards in environmental planning instruments</p> <p><i>Development consent may be granted for development for the purpose of a school that is State significant development even though the development would contravene a development standard imposed by this or any other</i></p>	<p>The proposed development provides a minor non-compliance with the Hornsby LEP height of buildings control for the subject site. As assessment of the proposal against the control is provided below.</p>	

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	<i>environmental planning instrument under which the consent is granted.</i>		
Clause 3.36 Schools – development permitted with consent <i>(1) Development for the purpose of a school may be carried out by any person with development consent on land in a prescribed zone.</i>		The proposed development is in the R2 Low Density Residential zone, which is a prescribed zone for the purposes of the School under the Transport and Infrastructure SEPP. The development is therefore permitted with consent under part 3.4.	Yes
<i>(2) Development for a purpose specified in section 3.40(1) or 3.41(2)(e) may be carried out by any person with development consent on land within the boundaries of an existing school.</i>		Development consent is sought for the proposed works.	Yes
<i>(5) A school (including any part of its site and any of its facilities) may be used, with development consent, for the physical, social, cultural or intellectual development or welfare of the community, whether or not it is a commercial use of the establishment.</i>		The community does currently have access to specific school facilities outside of school hours. No changes are proposed to current arrangements.	N/A
<i>(6) Before determining a development application for development of a kind referred to in subsection (1), (3) or (5), the consent authority must take into consideration—</i> <i>(a) the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 8, and</i>		The EIS addresses the design quality of the development. A formal response to the Schedule 8 School design quality principles is included in the Design Report prepared by Neeson Murcutt + Neille and is attached at Appendix F . As stated above, the community does currently have access to specific school facilities outside of school hours. No changes are proposed to current arrangements.	Yes

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	<i>(b) whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.</i>		
	<p><i>(7) Subject to subsection (8), the requirement in subsection (6)(a) applies to the exclusion of any provision in another environmental planning instrument that requires, or that relates to a requirement for, excellence (or like standard) in design as a prerequisite to the granting of development consent for development of that kind.</i></p> <p><i>(8) A provision in another environmental planning instrument that requires a competitive design process to be held as a prerequisite to the granting of development consent does not apply to development to which subsection (6)(a) applies that has a capital investment value of less than \$50 million.</i></p>	<p>The Hornsby LEP requires a competitive design process to be completed for development involving the erection of a new building or external alterations to an existing building—</p> <p>(a) that will result in a building with a height of more than 29.6 metres, or</p> <p>(b) for the purposes of attached dwellings, multi dwelling housing, residential flat buildings or shop top housing.</p> <p>This provision does not relate to the proposed development.</p>	N/A
	<i>(9) A provision of a development control plan (DCP) that specifies a requirement, standard or control in relation to development of a kind referred to in subsection (1), (2), (3) or (5) is of no effect, regardless of when the development control plan (DCP) was made.</i>	<p>Noted.</p> <p>Notwithstanding this, consideration has been given to relevant provisions of the Hornsby DCP with the relevant technical reports.</p>	N/A
State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)			
Clause 4.6 states that land must not be rezoned or developed unless contamination has been		A Preliminary Site Investigation has been undertaken by JK Environments (Appendix S).	Yes, refer to

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	considered and, where relevant, land has been appropriately remediated.	<p>The review of previous reports and results of the current investigation indicates that the site is likely to be impacted by contamination in fill potential asbestos containing materials in soil.</p> <p>Based on the nature of the contaminants it is considered unlikely that any significant contamination of groundwater is present and therefore does not require further assessment at this stage.</p> <p>Based on the results of the investigation, it is considered that the site can be made suitable for the proposed development subject to implementation of contamination recommendations during the future development of the concept works.</p>	Section 6.11 and Appendix S
Hornsby Local Environmental Plan (LEP) 2013			
Land use	The site is generally zoned R2 Low Density Residential.	<p>The site is generally zoned R2 Low Density under the Hornsby LEP.</p> <p>The R2 Low Density zone is identified as a 'prescribed zone' under clause 3.36 of Part 3.4 of the <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>. Clause 3.36 of the Transport and Infrastructure SEPP permits development for the purpose of a school to be development with consent within a prescribed zone.</p> <p><i>3.36 Schools—development permitted with consent</i></p> <p><i>(1) Development for the purpose of a school may be carried out by any person with development consent on land in a prescribed zone.</i></p> <p>Accordingly, by way of clause 3.36 of the Transport and Infrastructure SEPP, the proposed development is permitted as 'development with consent' on the site.</p>	Yes
	The site is also zoned B6 Enterprise Corridor zone.	<p>The site is partially zoned B6 Enterprise Corridor zone under the Hornsby LEP.</p> <p>The B6 Enterprise Corridor is identified as a 'prescribed zone' under clause 3.36 of Part 3.4 of the <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>.</p>	Yes

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		<p>Clause 3.36 of the Transport and Infrastructure SEPP permits development for the purpose of a school to be development with consent within a prescribed zone.</p> <p><i>3.36 Schools—development permitted with consent</i></p> <p><i>(1) Development for the purpose of a school may be carried out by any person with development consent on land in a prescribed zone.</i></p> <p>Accordingly, by way of clause 3.36 of the Transport and Infrastructure SEPP, the proposed development is permitted as ‘development with consent’ on the site.</p>	
Zoning objectives	<p>R2 zone has the following objectives:</p> <ul style="list-style-type: none"> ▪ 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. 	<p>The proposal is generally consistent with the objectives of the zone given:</p> <ul style="list-style-type: none"> ▪ The proposed development provides facilities for the growing day to day needs of the existing school community. ▪ The proposal enables high-quality teaching beyond what can currently be provided for the existing and future students of Barker. ▪ The existing school is an established and compatible land use within the zone that provides educational facilities for the residents in the area and the broader LGA. 	Consistent with zoning control
	<p>B6 zone has the following objectives:</p> <ul style="list-style-type: none"> ▪ To promote businesses along main roads and to encourage a mix of compatible uses. ▪ To provide a range of employment uses 	<p>While no physical works are proposed in land zoned B6, the proposal is generally consistent with the objectives of the zone given:</p> <ul style="list-style-type: none"> ▪ The school is an established use within the zone that provides employment generating uses including ongoing operational jobs and short-term construction jobs within a business zone. ▪ No residential development is proposed. 	

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	<p>(including business, office, retail and light industrial uses).</p> <ul style="list-style-type: none"> ▪ To maintain the economic strength of centres by limiting retailing activity. ▪ To provide for residential uses, but only as part of a mixed use development. 		
4.3 Height of Buildings	8.5m	<p>All works incorporated in Stage 1 remain compliant with the 8.5 metre height control.</p> <p>It is acknowledged that the proposed concept works exceed the 8.5 metre height of buildings development standard under the HLEP 2013.</p> <p>The proposed envelope for the Aquatics and Tennis Centre allows for a two-storey structure with associated basement parking accessible via Clarke Road. The proposed building envelope has a maximum height of 11.75 metres which results in a 38% variation. Overall, the built form is in keeping with the height of other school buildings, particularly those which adjoin the new Aquatics and Tennis Centre directly to the west. To maintain the functionality of the roof-top tennis courts, the reference scheme also incorporates a lightweight shade structure above the 'show courts' and fencing around the roof-top perimeter. These elements sit above the proposed building envelope with the shade structure and fencing of the 'show courts' resulting in a maximum height of 14.4 metres (69% variation) at the Clarke Road frontage, and the fencing enclosing the 'club courts' resulting in a maximum height of 17.95 metres (110% variation) at the corner of Clarke Road and Unwin Road.</p> <p>The Co-curricular Performing Arts and Exam Centre has an overall maximum height of 17.3 metres (103% variation) to the top of the proposed rooftop plant.</p>	Non-compliance

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		<p>The overall building envelope has been designed to ensure the proposed floor-to-ceiling height can facilitate the 750-seat recital hall. The main entrance on the Clarke Road frontage incorporates a street-wall height of 6.4 metres remaining compliant with the height control. From Unwin Road, the Co-curricular Performing Arts and Exam Centre building envelope presents as a two-storey building with a maximum street wall height of 13.1 metres (54% variation) at the south-eastern corner of the building.</p> <p>The area of non-compliance relates only to the proposed concept building envelopes, which will be subject to further assessment as part of a future detailed DA(s).</p> <p>Nevertheless, both non-compliant building envelopes read as two storey buildings with rooftop plant which reflects the intentions of the height limit but due to the topography of the site and specific educational requirements of the buildings, a compliant envelope is not possible.</p> <p>The area of non-compliance can be supported given the following considerations:</p> <ul style="list-style-type: none"> ▪ The desired outcome of the development will not be achieved if strict height compliance was to be applied, because: <ul style="list-style-type: none"> – The 8.5m height control would typically apply to residential developments in the R2 zone. However, the proposal is for a school development, which requires more significant floor to ceiling height to achieve a good level of amenity internally. The area of non-compliance relates to portion of the top floor level and is the direct result of achieving a higher floor to ceiling height to provide for adequate light and ventilation needed for the recital hall. – The proposed height is similar to approved built form within both the Barker campus and St Leo's to the east. ▪ Both buildings are generally compliant with the height control along street frontages. The areas of non-compliance are further setback from the street (which retains existing setbacks on site) and will generally not visible from the street. Therefore, 	

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		<p>the area of non-compliance will not be perceived from the public domain and will not create adverse visual impact.</p> <ul style="list-style-type: none"> ▪ The area of non-compliance will not create adverse view, privacy or solar impact to surrounding developments. <ul style="list-style-type: none"> – No significant view is identified onsite, therefore the area of non-compliance will not impact on any view across the campus. – The areas of non-compliance are setback from surrounding residents, therefore privacy is protected via compliant setback and building design. – The areas of non-compliance will maintain minimum 2 hours solar access to surrounding development. <p>As noted above, pursuant to Clause 3.43 of the Transport and Infrastructure SEPP:</p> <p><i>Development consent may be granted for development for the purpose of a school that is State significant development even though the development would contravene a development standard imposed by this or any other environmental planning instrument under which the consent is granted.</i></p> <p>Overall, strict compliance with the development standard would not deliver any meaningful benefits to Barker or occupants of the surrounding properties or the general public in the particular circumstance of this site and this proposal and would lead to a suboptimal outcome in land use planning terms. As such, the area of non-compliance has been adequately assessed and can be supported based on the reasoned outlined above. Further assessment of the detailed design and construction of the concept envelopes will be subject to further assessment as part of a future detailed DA(s).</p>	
4.4 Floor Space Ratio	<p>A Floor Space Ratio is not applicable for the site where physical works are proposed.</p> <p>The portion of the site has a FSR control of 1:1. As no physical works are proposed within this area of the site, no further assessment is required against the FSR control.</p>		

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5.10 Heritage Conservation	<p>Development consent is required to</p> <p><i>(a) demolish or move any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)</i></p> <p><i>(i) a heritage item,</i></p> <p><i>(ii) an Aboriginal object,</i></p> <p><i>(iii) a building, work, relic or tree within a heritage conservation area,</i></p>	<p>The subject property contains a number of items listed as being of local heritage significance on Schedule 5 of the HLEP including:</p> <ul style="list-style-type: none"> Item 465 – Barker College Junior School, College Crescent, Hornsby Item 501 – Barker College - group of buildings, grounds and gate, 91 Pacific Highway, Hornsby Item 782 - Barker College - Centenary Design Centre, McCaskill Music Centre and Development Office, 91 Pacific Highway, Hornsby (2, 4, 6 and 8-10 The Avenue and 2-6 Unwin Road, Hornsby) <p>The subject site is also located within the ‘Barker College Heritage Conservation Area’ (Item C1).</p> <p>NBRS undertook a heritage assessment and concluded that the proposed development within the Barker campus will respect the heritage significance of the campus, the Barker College Conservation Area and the surrounding vicinity heritage items.</p>	Yes, refer to Section 6.14 and Appendix Y
5.21 Flood Planning	The site is not identified as flood prone	<p>Although the site is not identified as a Flood Planning Area within the Hornsby Council LEP mapping, sections of site have been outlined as Low Hazard zones within the Hornsby Floodplain Risk Management Study and Plan 2015. Flooding is primarily associated with the western and southern boundaries of site (where concept approval is sought), with portions of surrounding roadways subject to high hazard levels during the 1% AEP.</p> <p>In accordance with Council DCP requirements, the current building envelopes have been designed to allow for the following Flood Planning Levels are to be adopted for design of site:</p> <ul style="list-style-type: none"> All habitable floor levels are to be a minimum of 0.5m above the 1:100 ARI flood level, and All garages or basement ramps should be 0.3m above the 1:100 ARI flood level. 	Yes, refer to Section 6.10 and Appendix U

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		Future detailed approval of the Aquatics and Tennis Centre and Co-curricular Performing Arts and Exam Centre will be required as part of any future detailed development application to ensure the final design does not result in any adverse impacts on the Barker campus and adjacent sites.	
6.1 Acid Sulfate Soils	Class 5	No further assessment on acid sulfate soil is required.	
6.2 Earthworks	Earthworks must not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	<p>Based on the findings of the Geotechnical Assessment prepared by JK Geotechnics:</p> <ul style="list-style-type: none"> ▪ Subsurface conditions below the various sites to the north of Clarke Road will comprise generally clay fill over residual claysoils with extremely weathered bedrock grading into distinctly weathered, very low to low strength siltstone bedrock. ▪ Surface water bodies were not identified in the immediate vicinity of the site. The closest surface water body is Waitara Creek located approximately 295m to the south-west and down gradient of site. Waitara Creek is considered to be a potential receptor, although it is a reasonable distance from the site and the potential for direct migration of groundwater contamination from the site and into this receptor is unlikely to occur. ▪ Low to medium or medium to high sandstone bedrock is expected to underlie the siltstone bedrock at depth and to occur below residual soils to the south of Clarke Road. ▪ Excavation of the fill and residual soils found on site will be readily achievable using conventional excavation equipment, such as the buckets of hydraulic excavators ▪ Surface water drainage across the site is expected to continue to flow in sympathy with the overall topography of the College and site, in a south direction. ▪ The previous boreholes have shown that the site is underlain by topsoil, clay fill and some locally deeper fill with residual silty clay encountered below. We are unaware of any records of the fill placement or compaction control, and therefore it must be 	Yes, refer to Appendix U , Appendix V and Appendix X

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		<p>considered as 'uncontrolled' and potentially not suitable to support footings or floor slabs.</p> <ul style="list-style-type: none"> It is intended that engineered fill, such as crushed sandstone or ripped rock, free of deleterious material and particles in excess of 70mm should be used on site. Excavated clay and siltstone may be re-used as engineered fill provided it is free of deleterious material and particles greater than 70mm in size. <p>As noted in the ACHAR, Extent Heritage completed a search of the Aboriginal Heritage Information Management Systems (AHIMS) database on 8 August 2021 to confirm if Aboriginal sites are registered within the study area. The results of the search found that no sites have been registered within the extent of the study area.</p> <p>The structural design of the new works will be undertaken in accordance with relevant codes and Australian Standards, and construction will not adversely impact on the adjoining buildings/assets. Further assessment in relation to future concept envelopes will be undertaken as part of future detailed assessment.</p>	