

JOINT REGIONAL PLANNING PANEL
(Sydney West Region)

JRPP No	2012SYW069
DA Number	DA/544/2012 (Lodged 1 June 2012)
Local Government Area	Hornsby
Proposed Development	<p>Proposed staged development application for redevelopment of Bowden Brae Retirement Village, Normanhurst.</p> <p>Stage 1 is for the development concept for building envelopes, siting of buildings, proposed uses and demolition of existing aged care accommodation and dwelling houses. The proposal comprises two to six storey buildings.</p> <p>Stage 2 is subject to a future development application and is for further demolition work, construction of four buildings comprising 111 independent living units, basement car parking and other facilities including a chapel, men's shed, library, café, wellness centre, dementia day care centre, pool and gymnasium.</p>
Street Address	40-50 Pennant Hills Road and 1-17 Frith Avenue, NORMANHURST.
Applicant/Owner	The Uniting Church in Australia Property Trust (NSW)
Number of Submissions	10
Recommendation	Approval
Report by	Garry Mahony – Senior Town Planner

Assessment Report and Recommendation

EXECUTIVE SUMMARY

1. The proposal is for staged development application for the redevelopment of the Bowden Brae Retirement Village at Normanhurst. Stage 1 is for the development concept and demolition of existing buildings. Stage 2 is subject to a future development application and is for further demolition and construction of four buildings ranging in height from two to six storey and comprising 111 independent living units, basement car parking and facilities for Seniors Living residents.
2. The proposed development is considered satisfactory in respect to the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* and *State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development*. The submitted objection to the floor space ratio development standard is considered well founded pursuant to *State Environmental Planning Policy No. 1 – Development Standards*.
3. There were 10 submissions received in response to the proposed development.
4. It is recommended that the application be approved.

RECOMMENDATION

THAT Development Application No. 544/2012 for the redevelopment of the Bowden Brae Retirement Village at Lot 4 DP 1077836, Lot 3 DP 1077836, Lot 14 DP 27914, Lot 13 DP 27914, Lot 12 DP 27914, Lot 11 DP 27914, Nos 40-50 Pennant Hills Road and Nos. 1-17 Frith Avenue, Normanhurst be approved as a staged development application subject to the conditions of consent detailed in Schedule 1 of this report.

DEVELOPMENT HISTORY

On 24 July 1969 Council approved DA/146/1969 for the establishment of aged persons units and nursing care centre, kindergarten and kiosk, on the subject site at Nos. 40-50 Pennant Hills Road, Normanhurst.

On 26 March 2002 Council approved DA/1515/2001 for a two to three storey residential care facility comprising 106 beds, on the subject site at Nos. 1-7 Frith Avenue, Normanhurst.

BACKGROUND

The development application follows preliminary consideration of the proposed development at a Pre DA meeting with Council officers on 24 May 2012.

The proposed staged development application involves redevelopment of the older part of the Bowden Brae Retirement Village site constructed during the 1970s for hostel and nursing home accommodation and self contained units. The applicant submits the accommodation is no longer adequate to meet requirements and lacks integration with the recently completed residential care facility, a later addition to the retirement village site on Frith Avenue and constructed in 2004.

On 9 Oct 2012 the applicant submitted amended plans to address Council concerns regarding the Frith Avenue streetscape.

THE SITE

The site includes the Bowden Brae Retirement Village which includes independent living units, a hostel and a residential care facility, operated by Uniting Care Aging in association with the Uniting Church. Bowden Brae has approximately 252 residents and employs approximately 120 staff.

The site generally forms a uniform street block bounded by Pennant Hills Road, Frith Avenue and Jasmine Road. The site has an area of 21,580m² and includes the following properties:

Nos. 1-7 Frith Avenue	Residential Care Facility comprising 60 high care places and 40 low care dementia places within a two-three storey building with central courtyard and basement carparking, fronting Frith Avenue. Completed 2004
No. 9 Frith Avenue	House
No. 11 Frith Avenue	House
No. 13 Frith Avenue	House
No. 15 Frith Avenue	House
No. 17 Frith Avenue	House
Nos 40-50 Pennant Hills Rd	Hostel with 66 nursing home beds within a four storey residential building (vacant) and 83 self-contained dwellings within three, four to five storey residential flat buildings. All buildings are linked by external walkways. Completed 1974.

The site has an average fall of 9% across the site from the Pennant Hills Road frontage to the Frith Avenue frontage and has a north westerly aspect. The site has a frontage of 160m to Pennant Hills Road (east boundary), a frontage of 175m to Frith Avenue (north boundary) and 90m (west boundary) and a frontage of 110m to Jasmine Road (south boundary).

The house at No. 19 Frith Avenue on the corner of Jasmine Road is not part of the site and is the only allotment within the street block not owned by the applicant.

The site includes numerous trees of indigenous and non-indigenous species located in the central part of the site, along the Pennant Hills Road frontage and along the Jasmine Road frontage.

The site is within a low density residential area and is located 500m east of Normanhurst Railway Station and shops. Single and two storey dwelling houses on suburban lots are located opposite the site on Frith Avenue. Normanhurst Boys High School is located opposite the site on Jasmine Road.

Pennant Hills Road carries significant traffic volumes (60,000+ vehicles per day). The Jasmine Road intersection is controlled by traffic lights.

THE PROPOSAL

The proposed staged development application involves the redevelopment of the older section of Bowden Brae Retirement Village and includes the site of four existing dwelling houses fronting Frith Avenue.

Stage 1 of the proposal is the development concept including the siting, scale, design concept and future use of proposed buildings and the demolition of four existing dwelling houses and the nursing home hostel.

Stage 2 is subject to a future development application for the demolition of the remaining buildings and construction of four buildings, Buildings A, B, C & D containing a total of 111 independent living units, basement car parking and other facilities including a chapel, men's shed, library, café, wellness centre, dementia day care centre, pool and gymnasium. The proposed buildings enclose a central community open space area.

- Building A is a two to five storey unit building with basement car park fronting Frith Avenue and includes a rear wing with connection to Building B and the existing Residential Care Facility.
- Building B is a five to six storey unit building with basement car park fronting Jasmine Road, includes connecting level with basement of Building C. The building includes the chapel, men's shed and library and the porte-cochere for the site.
- Building C is a five storey unit building fronting Pennant Hills Road with basement carpark accessed off Jasmine Road and connecting levels with Building D. The building includes community and recreation facilities.
- Building D is a four storey building containing dementia day care centre and short stay residential units and includes connection to the existing Residential Care Facility.

The more recent residential care facility located on Lot 3 DP 1077836 (Nos 1-7) Frith Avenue is to be retained and integrated with the proposed development.

ASSESSMENT

The development application has been assessed having regard to the '*Metropolitan Plan for Sydney 2036*', the '*North Subregion (Draft) Subregional Strategy*' and the matters for consideration prescribed

under Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act). Subsequently, the following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Metropolitan Plan for Sydney 2036 and (Draft) North Subregional Strategy

The *Metropolitan Plan for Sydney 2036* is a broad framework to secure Sydney's place in the global economy by promoting and managing growth. It outlines a vision for Sydney to 2036; the challenges faced, and the directions to follow to address these challenges and achieve the vision. The *Draft North Subregional Strategy* acts as a framework for Council in its preparation of the *Comprehensive LEP* by the end of 2012.

The *Draft North Subregional Strategy* sets the following targets for the Hornsby LGA by 2031:

- Employment capacity to increase by 9,000 jobs; and
- Housing stock to increase by 11,000 dwellings.

The proposed development would be consistent with the draft Strategy by providing additional housing accommodation for an aging population.

2. STATUTORY CONTROLS

Section 79C(1)(a) requires Council to consider any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and other prescribed matters.

2.1 Hornsby Local Environmental Plan 1994

The subject land is zoned Residential A (Low Density) under the *Hornsby Local Environmental Plan 1994* (HSLEP). The objectives of the zone are:

- (a) to provide for the housing needs of the population of the Hornsby area.
- (b) to promote a variety of housing types and other land uses compatible with a low density residential environment.
- (c) to provide for development that is within the environmental capacity of a low density residential environment.

The proposed development is defined as 'housing for aged or differently abled persons' under the HSLEP and is permissible in the zone with Council's consent.

Clause 15 of HSLEP prescribes that the maximum floor space ratio (FSR) of development within the zone is 0.4:1. The proposed development exceeds this requirement. The proposal however is subject to the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors Living SEPP) which prevails to the extent of any inconsistency with HSLEP.

Clause 18 of HSLEP sets out heritage conservation provisions within the Hornsby Shire area. The site includes a 'garden' identified as a heritage item of local significance, in the north east part of the site within Lot 3 DP 1077386, Nos 1-7 Frith Avenue. The garden formed part of the grounds of a previous

dwelling house on the site. The applicant submitted a Heritage Impact Statement in respect to the item. It is considered the proposed development would not impact on the significance of the garden.

2.2 Draft Comprehensive Hornsby Local Environmental Plan

At its meeting on 7 March 2012, Council resolved to endorse the *draft Hornsby Local Environmental Plan* (DHLEP). The draft plan is currently on exhibition. Under the *DHLEP*, the subject land would be zoned R2 - Low Density Residential. The proposed development would be defined as 'seniors housing' and would be prohibited in the zone.

The provisions of the *Seniors Living SEPP* would prevail in respect to *DHLEP*. Notwithstanding, the provisions under Clause 45 of the Policy for 'Vertical Villages' would not apply to the subject site as residential flat buildings would be prohibited.

2.3 Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River

The *Plan* regulates impacts of future land uses on the River through implementation of planning policies and strategies for total catchment management, environmentally sensitive areas, water quantity, cultural heritage, flora and fauna, riverine scenic quality, agriculture/acquaculture and fishing, rural residential development, urban development, recreation and tourism.

The proposed development would not detract from the environmental quality of the river subject to the implementation of sediment and erosion control measures.

2.4 State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 (SEPP 55) requires that Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated or requires remediation for the proposed use.

The site has been used for residential purposes and is unlikely to be contaminated. No further assessment is considered necessary in this regard. A condition is recommended should any contamination be found during demolition works.

2.5 State Environmental Planning Policy (Infrastructure) 2007

The Policy enables effective implementation of infrastructure in NSW and includes development controls for public works and services.

The development application is subject to Clause 102 of the Policy for referral to the Roads and Maritime Services (RMS), in respect to a residential building adjacent to a road with an average daily traffic volume of more than 40,000 vehicles and the impacts of road noise and vibration. The applicant submitted a Noise Impact Assessment which was referred to the RMS with the application.

Roads and Maritime Services advised of its concurrence to the proposed development subject to requirements to be addressed in the construction of the proposed development and for details concerning provision for pedestrian facilities and non-car modes of travel. The applicant has submitted necessary details which are satisfactory in addressing these requirements.

Refer also to discussion in Section 3.2.2.

2.6 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The Seniors Living SEPP is the prevailing planning instrument for the development of housing for aged and disabled people in NSW and provides for hostels, residential care facilities (nursing homes), self contained dwellings and multi-storey dwellings. The Policy is comprehensive in scope and includes land use planning provisions, design principles, design guidelines, development standards and standards specific to meet the housings needs of seniors and people with a disability.

2.6.1 Permissible Development – Vertical Village

The submitted development application is pursuant to Clause 45 Vertical Villages of the Seniors Living SEPP, which provides for a floor space ratio bonus of 0.5:1 to the applicable floor space ratio under an environmental planning instrument (0.4:1 HSLEP), on sites where residential flat buildings are permitted. The applicant relies on legal advice that residential flat development is permissible on the site as 'multi-unit housing' is permissible within the subject Residential A (Low Density) Zone. The advice has been confirmed by Council's solicitor in respect to a similar proposal for Affordable Rental Housing at Beecroft (DA/1305/2011) under *State Environmental Planning Policy (Affordable Rental Housing) 2009* which similarly permits residential flat development. A floor space ratio of 0.9:1 is therefore applicable to the site under the provisions of Clause 45.

The maximum permissible floor space ratio is a development standard subject to the provisions of *State Environmental Planning Policy No. 1 – Development Standards (SEPP 1)*. The applicant is seeking a *SEPP 1* variation to the development standard to allow a floor space ratio of 1.08:1. Refer to discussion in Section 2.7.

The *Seniors Living SEPP* is silent in respect to planning controls for Vertical Villages other than for floor space ratio under Clause 45 and the design principles under Part 3 Division 2 of that Policy.

State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development (SEPP 65) applies to the proposed development. Refer to discussion in Section 2.9.

Permissibility of Vertical Villages pursuant to the Seniors Living SEPP is subject to the provision of on-site support services including 3 meals a day, personal care, home nursing and assistance with housework. Also, permissibility is subject to the provision of affordable housing by a registered community housing provider. The proposed development includes provision for on-site support services. The on-site support services are currently provided at the Bowden Brae Retirement Village. Uniting Care Aging is a registered community housing provider. Currently 25% of Bowden Brae residents are affordable housing residents. The requirement of the Seniors Living SEPP is for a minimum of 10% of dwellings to be affordable. The documentation submitted by the applicant is considered satisfactory in demonstrating provision for on-site support services and affordable housing for the proposed development.

2.6.2 Accessibility

The Seniors Living SEPP includes mandatory standards for accessibility and useability of dwellings for Seniors Living developments to ensure wheelchair accessibility throughout the development and to a public road and to ensure circulation space and accessible fixtures and fittings within dwellings. Mandatory standards also apply for access to public transport, medical services and shops. The applicant submitted a report prepared by an Access Consultant, which included a detailed assessment of the subject site and the proposed development, concerning compliance with the mandatory standards. The report noted the following matters:

- The path of travel from the southern corner of the site to the bus stop on Pennant Hills Road at the frontage of Normanhurst Boys High School is in compliance with the access requirements, other than the kerb ramps at the Jasmine Road signalised pedestrian crossing.
- The path of travel from the Jasmine Road signalised intersection across Pennant Hills Road to the bus stop on the opposite side of Normanhurst Boys High School complies with the access requirements. However, the volume and speed of traffic would make the crossing difficult for older residents.
- The pedestrian pathway from Jasmine Road to Denman Parade and to Normanhurst shops and train station does not meet the distance or access requirements.
- The path of travel from the entrance to the site at the Jasmine Road frontage to the Jasmine Road signalised intersection corner Pennant Hills Road includes a steep gradient of 1:8 where a seat is provided adjacent to the pedestrian pathway.
- The path of travel along the Frith Avenue frontage from the entrance to Pennant Hills Road, meets the access requirements.

The bus services available to residents on Pennant Hills Road include Bus Route 632 between Hornsby Interchange and Castle Hill Terminus, Bus Route M60 between Hornsby Interchange and Parramatta Interchange and Bus Route 589 between Hornsby Interchange and Sydney Adventist Hospital. The steepness of the gradient on Jasmine Road and the difficulty for older residents in crossing Pennant Hills Road were issues raised with the applicant. In response the Access Consultant made the following statement:

The footpath on Jasmine Rd is not on a path of travel required to be accessible by the SEPP. It is too steep to comply with the SEPP requirements and though it links to the path to the shops and station at Normanhurst, they are more than 400m (required by the SEPP) from the proposed development. The path of travel along Denman Parade (leading to the shops and station) is also not accessible due to steep grades.

The path of travel to meet SEPP clause 26 is via the footpath on Pennant Hills Road to the bus stops on Pennant Hills Road. On this path of travel, the kerb ramps to cross Jasmine Road require upgrading, and if possible the traffic lights require a sequencing / setting to accommodate the requirements of older people crossing the road.

Bowden Brae currently has an accessible bus, and this will be available to residents of the new development, for alternate accessible transport to local community facilities / shops / appointments (required to meet clause 26) to meet the intent of the SEPP.

The new entry / exit to the development is to be located on an accessible path of travel to Pennant Hills Rd and via accessible internal links to all new independent living units (including via existing areas to be modified if required).

It is considered that provision for a continuous path of travel between the proposed development and the bus stops on Pennant Hills Road could be constructed and accordingly would be works addressed in Stage 2 of the proposed development. Notwithstanding, Bowden Brae has an accessible bus for resident transport to shops, medical and community facilities.

The sequencing of the traffic lights on Pennant Hills Road for elderly pedestrians is a matter for Roads and Maritime Services. In this regard, should the application be approved, the development application for Stage 2 of the development would be subject to further concurrence of the Roads and Maritime Services. It should be noted the concurrence granted by the Roads and Maritime Services to this application is not subject to a requirement for sequencing of the traffic lights for the pedestrian crossing on Pennant Hills Road. It is considered this matter would need to be addressed by the applicant in Stage 2 of the proposed development.

2.6.3 Neighbourhood Amenity and Streetscape

The proposed redevelopment includes four buildings, Building A, Building B, Building C and Building D. The buildings range from three to six storeys and include basement carparking over one and two levels.

The existing Bowden Brae Retirement Village site includes existing medium/high density development comprising a 2-3 storey residential care facility, a 4 storey hostel building and three x 5 storey residential flat buildings. The built form of the immediate locality is characterised by the existing retirement village, Normanhurst Boys High School and single and two storey dwelling houses.

The proposed redevelopment site includes existing dwelling houses (Nos. 9, 11, 13, 15 & 17) fronting the lower eastern side of Frith Avenue with a total frontage of 88m. The existing streetscape is characterised by street trees and the presentation of dwelling houses to the lower and higher side of the street with the dwellings on the higher eastern side predominating in the streetscape. The juxtaposition of existing single and two storey dwelling houses with the proposed five storey building (Building A), would result in a significant change to the streetscape. The design principle of the *Seniors Living SEPP* is for new buildings to contribute to the quality and identity of the area and to maintain reasonable neighbourhood amenity and appropriate residential character.

The submitted indicative plans for five storey Building A include a front setback of 8m-10m with the setback further increased for each storey at the Frith Avenue frontage. The proposed front setback has regard to the setback of the existing dwelling houses and to the *Housing Strategy Development Control Plan (Housing Strategy DCP)* required 10m front setback for five storey residential flat development. The 10m setback is considered an appropriate separation to provide a transition in scale of built form between high and low density developments separated by a public road, as provided for by the *Housing Strategy DCP*. Proposed Building A is stepped in height reducing from

five storey to four storey to two storey at the northern and southern elevations. The stepping of the building accords with the height of the adjoining dwelling house at No. 19 Frith Avenue and the applicant's existing residential care facility at Nos. 1-7 Frith Avenue. It is considered the proposed indicative building envelope would provide a five storey building moderated with regard to the surrounding built form, would provide an effective transition in built form and would be acceptable in the streetscape. In this regard the applicant submitted a peer review of the proposed building, prepared by Kennedy Associates Architects. The peer review is attached to this report.

The indicative building envelope of proposed Building B is a five to six storey building and has frontage to Jasmine Road and is located opposite Normanhurst Boys High School. The building includes two basement car parking levels. The proposed building replaces the existing four to five storey buildings on the site. The proposed building is consistent with the scale of existing development and would be acceptable in the streetscape.

The indicative building envelope of proposed Building C has frontage to Pennant Hills Road, is stepped to the site and involves excavation works. The proposed building is five storey at the Pennant Hills Road frontage and is setback 10m-15m. The existing development appears two storey in the Pennant Hills Road streetscape. The proposed setback enables the retention of existing trees and introduction of landscaping to provide screening of the proposed development in the Pennant Hills Road streetscape. Subject to existing vegetation being retained it is considered the proposed building would not detract from the Pennant Hills Road streetscape.

The indicative building envelope of proposed Building C is for a three and four storey building, internal to the site and adjacent to the rear of the existing residential care facility fronting Frith Avenue. The proposed building includes a minor element in the Pennant Hills Road frontage and would not detract from the streetscape.

It is considered the proposed development has adequate regard to the scale of the surrounding residential character and built form and is acceptable in respect to neighbourhood amenity and the streetscape.

2.6.4 Visual and Acoustic Privacy

The site is subject to continual road noise from Pennant Hills Road. The proposed orientation and design of buildings is to address and mitigate the noise impacts of Pennant Hills Road. This is largely achieved by the siting and design of proposed Building C and the location of the service areas within the building at the Pennant Hills Road frontage. The applicant submitted an acoustic report which recommends treatment of the external facades of the proposed buildings to achieve the acceptable internal noise level of 35 dB(A) for sleeping areas. It is considered that the proposed development would provide an appropriate environment for residents subject to necessary acoustic treatment. Further acoustic assessment would be required for Stage 2 of the proposed development.

The facade treatment of the proposed buildings and placement of windows and balconies would be detailed in plans submitted for construction of the proposed development and be considered with regard to privacy in the assessment of Stage 2 for a future development application.

Proposed Building A would be elevated to existing dwelling houses opposite on Frith Avenue. The open space areas at the rear of the existing dwellings and the position of the dwellings below the level

of the street would provide an acceptable level of privacy for the existing residents. Any balconies of the proposed Building A at the Frith Street elevation would need to be designed to ensure the privacy of existing residents is maintained.

The existing dwelling house at No. 19 Frith Street is the only residential property adjoining the Bowden Brae site. The dwelling is substantially overlooked by the existing hostel building. The proposed development would result in considerable bulk and scale and substantial visual impact on residents of the existing dwelling house. Notwithstanding, the proposed development is considered an appropriate design response to the overall context of the 2.51 hectare site. Given the bulk and scale of the existing retirement village and proximity to the adjoining dwelling house the proposed redevelopment is considered acceptable subject to appropriate screening for privacy. Further privacy assessment would be required for Stage 2 of the proposed development.

2.6.5 Solar Access and Design for Climate

Design for solar access for future dwellings within the proposed redevelopment would be subject to analysis in the assessment of the development application for Stage 2 for construction of the proposed development. The design for solar access would be in accordance with the requirements of the *SEPP 65 Residential Flat Design Code* for a minimum of 70% of dwellings to receive 2 hours of sunlight between 9am and 3pm mid winter.

The proposed buildings are sited and designed to maintain solar access of the adjoining house at No. 19 Frith Avenue. The proposed solar access would be in accordance with Council's requirement for dwelling houses to receive a minimum of 4 hours of sunlight to open space areas and 3 hours of sunlight to north facing windows, 22 June. The proposed redevelopment would not overshadow any other existing dwelling house.

2.6.6 Stormwater

The submitted concept stormwater plans for the proposed development are considered acceptable for the proposal.

The proposed stormwater system would be subject to a hydraulic analysis submitted in the development application for the Stage 2 construction phase and is to be in accordance with Council's *Civil Works – Design and Construction Specification 2005*.

The stormwater drainage system for the development is to include an on-site detention system to minimise run-off impacts on downstream waterways.

2.6.7 Crime Prevention

The retirement village site is established and the existing accessways and entry points are maintained for the proposed redevelopment. The proposed site layout and orientation of buildings would ensure Crime Prevention Through Environmental Design principles (CPTED) for surveillance, access control, space management and territorial reinforcement are able to be incorporated in the Stage 2 construction phase of the proposed development.

2.6.8 Waste Management

Proposed Building A, Building B, Building C and Building D are to be designed for waste management in accordance with Council's *Waste Minimisation and Management Development Control Plan*. The submitted Waste Management Plan is considered satisfactory in addressing the waste management requirements for the proposed buildings. Design details would be subject to development application assessment for the Stage 2 construction phase of the proposed development.

2.7 State Environmental Planning Policy No. 1 – Development Standards

The applicant has submitted an objection against the maximum permitted floor space ratio of 0.9:1 pursuant to Clause 45 of the *Seniors Living SEPP*. The proposed development would have a floor space ratio of 1.06:1.

The application has been assessed against the requirements of *SEPP 1*. This *Policy* provides flexibility in the application of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objectives of the *Act*.

The proposed variation of the development standards would not raise any matter of significance for State and regional planning. The public benefit of maintaining the development standards is considered outweighed by the benefit of the proposed redevelopment to the community.

The Land and Environment Court has expressed the view that there are five different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the *Policy*:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standards;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

The applicant's objection is made with regard to the above 5 point test and the assumed objective of the floor space ratio standard ie:

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- (a) *to establish an intensity of development appropriate to the constraints and opportunities of the development site and its surrounding context, and*
- (b) *to regulate the bulk and scale of development in order to limit potential unreasonable external impacts.*

and includes the following statements:

- *The site has capacity to absorb a density of development which exceeds the FSR and is appropriate for the site and its context.*
- *The site currently comprises an existing seniors living development that exceeds the allowable FSR prescribed for development within the Residential A zone under the HSLEP and the “vertical village bonus” under the Seniors Living SEPP at 0.92:1. As such, the existing development is already inherently different to the existing and likely future single residential development in the locality, as envisaged under the HSLEP and accompanying DCP’s. The existing use and density of the site establishes a precedent for a development of a scale that is not typically envisaged by these local planning controls.*
- *The variation to the development standard does not contribute to any substantive intensification of the existing use of the site or to any unreasonable impacts in terms of the bulk and scale of proposed buildings, strict compliance would not result in any tangible benefits, however it would result in a reduction in the amount of much needed housing for the aged and associated support services for residents of the development and the wider community.*
- *The low density residential zone applicable to the site appears to have been applied on a “generic” rather than site specific basis. Whilst the zone is appropriate and consistent with the form of surrounding single domestic scale development, it does not take account of the existing situation of this large, more intensive “institutional” type development. Development standards that may be appropriate to houses (whether they be height of FSR) are often manifestly inappropriate for some uses that are also permitted within the residential zone, such as educational establishments and senior housing. There is nothing to indicate that the approved existing scale of development on the site is not appropriate despite the fact that it considerably exceeds the scale of its surrounds.*
- *Strict compliance would hinder the objects of the Act because it would reduce and not promote the social welfare of the local community and the economic use of the site. It would not promote the objectives of the Seniors Living SEPP. It would also not be in the public interest since it would result in a reduction in much needed housing and services for the aged in the community without any tangible benefits in terms of environmental or other impact mitigation arising from that reduction.*
- *The flexible application of the standard in these circumstances is appropriate as the development achieves the underlying purpose of the standard and is consistent with the aims and objectives of SEPP 1.*

The applicant's objection to the 0.9:1 floor space ratio development standard is considered well founded and is supported for the following reasons: -

- (a) The proposed development is commensurate with the existing retirement village floor space ratio of 0.92:1 and in terms of bulk and scale.
- (b) The proposed development is within the capacity of the subject site in terms of residential density, scale of development, site parameters and environmental impacts.
- (c) The existing development does not accord with the subject Residential A (Low Density) Zone and could not be considered within the context of a low density residential environment.
- (d) The proposal would not result in a precedent for similar developments given the existing retirement village on the site.

The application is to be determined by the Joint Regional Planning Panel. The Panel assumes Council's role as the delegated authority of the Director General of the Department of Planning and Infrastructure, for the variation of the development standard.

2.8 State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 (SEPP 55) requires that Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated or requires remediation for the proposed use.

The site has been used for residential purposes and is unlikely to be contaminated. No further assessment is considered necessary in this regard. A condition is recommended should any contamination be found during demolition work.

2.9 State Environmental Planning Policy No. 65 – Design Quality Residential Flat Development

The Policy provides for design principles to improve the design quality of residential flat development and for consistency in planning controls across the State.

The applicant has submitted a design verification statement prepared by a qualified designer stating how the proposed development achieves the design principles of *SEPP 65*. The design principles of *SEPP 65* and the submitted design verification statement are addressed below.

2.9.1 Principle 1 - Context

Design Principle 1 is as follows:

Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.

Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as

stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

In response to this Principle the applicant's statement is as follows:

The context for the proposed development is both socio-political and physical.

Socio-political context

The development of planning concepts which embody the value of diversity and the loosely related concept of integration to encourage diversity in the built environment and social diversity within communities.

The widely acknowledged need for the design of the built environment to contribute to the creation of socially sustainable and inclusive communities, against the background of a far-reaching demographic shift.

The need for the planning of housing and living spaces for older people to embrace demographic diversity and encourage continued interaction and participation of older people in the broader community.

Enormous impact that the aging of the Australian population will bring to bear on the future of housing.

The call for adaptive and universal housing. Universal housing refers to a different way of thinking about adaptive and accessible housing, based on the principle that better housing design for older people is better housing design for everyone.

The undeniable trend towards an aging population with demands for proximity to quality services, affordability and companionship in old age.

The fact that current housing largely ignores retirement-based social interaction, shared use of open space for recreation, sharing of resources including personal transport and mutual caring and support.

Physical context

The site of 21,580m² bounded by three streets: Pennant Hills Road to the south-east, Frith Avenue to the north-west and north-east and Jasmine Road to the south-west.

The site is approximately 2.2km to the south of Hornsby railway Station, 1.4km to the west of Wahroonga Railway Station and 750m to the east of Normanhurst Railway station.

It is located about 2.4km from Hornsby Westfield shopping centre.

The site has an irregular rhomboid shape and slopes from Pennant Hills Road (which traces a ridge line) down to Frith Avenue (north-west part). There is also a cross fall from Frith Avenue (north-eastern part) to Jasmine Road.

The surrounding properties are predominantly residential with a mix of single and two storey dwellings along Frith Avenue and Pennant Hills Road. Adjacent to the west of the site on Jasmine Road is Normanhurst Boys High School containing large institutional style buildings up to at least three storeys.

The surrounding land is zoned Residential A (Low Density) for one and two storey buildings.

The existing residential aged care facility (RAC), Bowden Brae Gardens is located along the Frith Avenue side of the site and will remain. Adjacent to this building and at the north eastern boundary of the site (bounded by Frith Avenue and Pennant Hills Road) is a garden of local heritage significance containing many significant trees. This garden will remain intact.

The existing multi-storey (up to seven levels) building which occupies a large portion of the site will be demolished, as will four houses along Frith Avenue.

The design proposes four new buildings, known as Building A, Building B, Building C and Building D consisting of independent living units (ILUs), basement car parking and various community facilities (including a chapel, men's shed, library, café, wellness centre, day care centre, pool, gymnasium). All buildings are connected by a common basement. A below ground ramped link joins the existing Bowden Brae gardens basement to Building A while an above-ground glazed link joins the RAC to Building D.

Building A facing Frith Avenue has three major components:

- *a two to five storey block facing Frith Avenue (north-west)) with pedestrian entry and vehicular entry (to basement) from Frith Avenue.*
- *a five storey southern wing with a residents entry lobby facing the central green area "the Common".*
- *a basement for car parking and services.*

Building B facing Jasmine Road has three major components:

- *a five storey block of units with vehicular entry (to basement) from Frith Avenue with pedestrian entry (residents) entry from the colonnade tracing "the Common"*
- *two storey basement for car parking and services.*
- *part of the ground floor contains the chapel and library, adjacent to the main drop-off or porte-cochere for the site*

Building C facing Pennant Hills Road has three major components:

- *ground floor containing community facilities which define the edge of 'The Common.*
- *five levels of residential units.*

- *basement for car parking and services.*

Building D facing “The Common” has three major components:

- *dementia day care centre.*
- *short stay residential care units linked to Level 3 of the existing RAC.*
- *basement car parking.*

At the centre of the site, a large green area called “The Common” links together the new and existing built forms. The community facilities trace the edges of this open space. A vehicular drop off from Jasmine Road and another from Frith Avenue provide ease of access to this main green space and community activities/services.

The site includes the existing Bowden Brae Retirement Village which has been operating on the site for 40 years and is well established in the provision of accommodation and support services for elderly residents. The applicant’s submitted statement is supported in respect to this Principle.

2.9.2 Principle 2 - Scale

Design Principle 2 is as follows:

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

In response to this Principle the applicant’s statement is as follows:

The scale of the proposed new buildings has been determined in relation to the RAC existing development and the significant trees which are to be retained – and the existing multi-storey building which is to be demolished.

The proposed buildings step down the site reflecting the existing topography.

The maximum building height of all proposed buildings on the site is 24.4 metres. The proposed height is considered to be appropriate for the site because it is:

- *compatible with the existing RAC.*
- *compatible with the location of site adjacent to Pennant Hills Road and Normanhurst Boys High School.*

<i>Maximum Height</i>	<i>Building A</i>	<i>19.5 metres</i>
	<i>Building B</i>	<i>24.4 metres</i>
	<i>Building C</i>	<i>21.6 metres</i>
	<i>Building D</i>	<i>13.7 metres</i>

The scale of the proposed development is consistent with the scale and intensity of the existing retirement village in terms of height and residential density. The applicant’s statement is supported in respect to this Principle.

2.9.3 Principle 3 – Built Form

Design Principle 3 is as follows:

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscape and parks, including their views and vistas, and provides internal amenity and outlook.

In response to this Principle the applicant's statement is as follows:

The wings of Buildings A, C and D are designed to be one apartment deep in order to keep the built form as slender as possible as well as to give good access to natural light and air – and to ensure that each apartment has a front door to the access "path" or "street" on its floor.

Building B has a central corridor in order to allow a proportion of apartments or units to face a northerly direction. Nevertheless the building depth is limited to 19.6 metres deep.

Further, the blocks are positioned so that landscaped areas may surround each building while forming central community open space.

The proposed development responds to the topography of the site and provides a more contemporary facility designed to integrate with the existing residential care facility. The submitted statement is supported in respect to this Principle.

2.9.4 Principle 4 – Density

Design Principle 4 is as follows:

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

In response to this Principle the applicant's statement is as follows:

Although the proposed FSR is higher than the current FSR, the proposed layout and density has been chosen to maximise the amount of "useable" open space on the site and retain the majority of significant trees.

The proposed layout, height, bulk and scale of the proposed buildings presents well-articulated street facades and massing.

The proposed density for the site is considered to be appropriate given the size of the site, the existing “dense” built form which sets a precedent for the site and the way that the buildings have been sited and articulated so as to reduce any adverse visual impacts.

The proposed residential density and scale is consistent with the existing retirement village. The submitted statement is supported in respect to this Principle.

2.9.5 Principle 5 – Resource, energy and water efficiency

Design Principle 5 is as follows:

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

In response to this Principle the applicant’s statement is as follows:

The design of the new development incorporates the following attributes:

- *natural light and ventilation to almost all habitable and circulation areas.*
- *water storage and re-use for landscape irrigation.*
- *water detention.*
- *energy efficient appliances and fixtures.*
- *northern orientation of the majority of units.*
- *materials selection based on environmental performance.*

The proposed development at Stage 2 would include the apartment layout and building fenestration and be subject to BASIX assessment. The submitted statement is supported in respect to this Principle.

2.9.6 Principle 6 – Landscape

Design Principle 6 is as follows:

Good design recognises that together landscape and buildings operate as an integral and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site’s natural and cultural features in responsible and creative ways. It enhances the development’s natural environmental performance by co-

ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbour's amenity, and provide for practical establishment and long term management.

In response to this Principle the applicant's statement is as follows:

At the north eastern boundary of the site (bounded by Frith Avenue) is a garden of local heritage significance (containing many significant trees in particular a mature redwood (c1920), Cypress Pine, Norfolk Island Pine and Illawarra Plane Tree), Hornsby Shire Council Heritage Item 1596. This garden will remain intact.

The proposed landscape will feature the following aims:

- *create a central green, open space "The Common" which provides the focal point and unifying element for the site. The Common includes a children's playground; level areas of lawn for games such as boules and for larger parties.*
- *create a restful and healing 'green' environment for residents and visitors.*
- *provide a variety of gardens and roof terraces for active and passive use, including the day centre garden, children's playground and productive gardens.*
- *retain the majority of significant trees on the site.*
- *respond to functional needs such as screening, shade and shelter.*

The layout of the proposed buildings retains significant trees and the heritage listed garden and provides appropriate open space and setting for the development. The submitted statement is supported in respect to this Principle.

2.9.7 Principle 7 – Amenity

Design Principle 7 is as follows:

Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

In response to this Principle the applicant's statement is as follows:

The disposition of volumes on the site has been carefully studied in order to have minimal adverse impact on the overshadowing of the neighbouring properties.

In the new development, the apartments are primarily single loaded to maximise access to natural light and air, have generous open space plus those qualities essential to the fundamental reason for this proposal:

- *all units are fully adaptable (universal housing design).*
- *a common area in each building for residents – with access to an outdoor area.*
- *a utility or carer's resource room on each floor to provide the care services that may be required by residents.*
- *the circulation space is punctuated by seats for incidental meetings and conversations.*

Ground floor units will have individual gardens, suitable for people with small pets.

Building D is designed so that the glazed access balconies provide an acoustic buffer to the high traffic noise of Pennant Hills Road. Further the bulk of the building will help shield the rest of the site from the noise source.

The proposed indicative building envelopes would provide design opportunity for the provision of a high level of amenity for residents. The submitted statement is supported in respect to this Principle.

2.9.8 Principle 8 – Safety and security

Design Principle 8 is as follows:

Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

In response to this Principle the applicant's statement is as follows:

The development is designed so that all edges are active and will provide passive surveillance of the interior and exterior spaces.

As described in Principle 7 above, the circulation areas are conceived as places of socialization to prevent the anonymity that can be associated with apartment living where one moves from the elevator directly to a unit door, without the day-to-day interaction one finds on a street.

In addition, 'smart technology' will provide monitoring for residents.

Further, each floor has a carer's resource room so that carers can provide assistance as required.

The proposed site layout and orientation of buildings would ensure implementation of CPTED principles. The applicant's submitted statement is supported in respect to this Principle.

2.9.9 Principle 9 – Social dimensions and housing affordability

Design Principle 9 is as follows:

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New development should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.

New development should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.

In response to this Principle the applicant's statement is as follows:

In addition to the equalities described in Principles 7 and 8 above, the development is designed to facilitate interaction with the neighbouring community and to function as the hub of a hub and spoke service network for the Uniting Care Northern Region.

The proposed community facilities that may be used by residents, visitors and neighbours are:

- *Building B: chapel, men's shed and library.*
- *Building C: beauty salon, café, multi-purpose room, pool, gymnasium, consulting rooms, associated amenities and administration.*
- *Building D: dementia day care centre and short stay/respite units.*
- *Central Open Space.*

The proposed redevelopment would enhance the quality of care and support services for elderly people. The applicant is a registered community housing provider. The submitted statement is supported in respect to this Principle.

2.9.10 Principle 10 – Aesthetics

Design Principle 10 is as follows:

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

In response to this Principle the applicant's statement is as follows:

The built form of the new buildings reflects both the edge conditions of the site and the development's social program and aspirations.

The central green open space is designed to provide the focus of the development with all community spaces and activities opening onto it. From this main outdoor room, fingers of "green" trace out and surround all the buildings, protecting the majority of the existing significant trees.

There are a number of apartment types (1 bedroom, 1.5 bedroom, 2 bedroom and 2.5 bedroom). For the majority of apartments, there is access to natural light and ventilation from at least two sides: the living area looks out to the surroundings; the entry door/carer's space and bathroom faces the access path or lobby.

The access balconies are defined by glazed louvers and allow light and air to enter the apartments through the operable glazing of the carer's spaces and bathrooms.

Common rooms in each building and the landscaped roof terraces of Building A and C provide other spaces for social interaction.

The building forms are highly articulated with steps in the facades both in plan and section to provide, with both projecting and recessed balconies and sun shading planes, a play of light and shade across the façade. The steps also respond to the topography.

While a simple palette of materials is proposed – glass, glazed ceramic tiles and bricks, composite panels – the disposition of materials will differ in relation to the edge conditions and the formal or architectural relationships.

The details of materials and finishes would be subject to consideration in the assessment of the development application for the construction of the development, if approved, under Stage 2. The submitted statement is generally supported in respect to this Principle.

2.10 SEPP 65 - Residential Flat Design Code

SEPP 65 also requires consideration of the *Residential Flat Design Code*, NSW Planning Department 2002. The *Code* includes development controls and best practice benchmarks for achieving the design principles of the SEPP 65.

The floor plans and elevations for the proposed 111 units within the development would be submitted with the development application for the Stage 2 Construction phase of the redevelopment and be subject to consideration and assessment in accordance with the *Code*.

2.11 State Environmental Planning Policy – Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River

The site is located within the catchment of the Hawkesbury Nepean River. Part 2 of this Plan contains general planning considerations and strategies requiring Council to consider the impacts of this proposal on water quality, scenic quality, aquaculture, recreation and tourism.

Subject to the implementation of sediment and erosion control measures, stormwater management and wastewater management to protect water quality, the proposal would comply with the requirements of the Policy.

2.12 Waste Minimisation & Management Development Control Plan (WMMDCP)

The applicant has submitted a Waste Management Plan which addresses reuse and recycling of materials from the demolition of the four existing dwellings and the hostel building on the site (Stage 1), in accordance with the WMMDCP.

The Waste Management Plan is satisfactory in addressing the disposal of hazardous materials should any be identified in the demolition work.

3. ENVIRONMENTAL IMPACTS

Section 79C(1)(b) of the Act requires Council to consider *“the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality”*.

3.1 Natural Environment

The 2.158 hectare site includes locally indigenous trees and is well landscaped. There are 152 trees on the site of which 59 trees are native trees includes 12 trees which are remnant trees of Blue Gum High Forest (BGHF) a critically endangered ecological community. The BGHF trees include trees Nos. 1, 3, 17, 20, 23, 24, 25, 26, 27, 37, 39, 41, 46 and 94.

The proposed development would involve the removal of 59 trees including 6 BGHF trees Nos. 3, 17, 20, 24, 25 and 27.

Stage 1 of the proposed development involving the demolition of four existing dwelling houses and the hostel building would not require the removal of any trees.

The impact of the development on trees on the site would be further considered in the assessment of a development application for Stage 2 for construction of the proposed development if approved. In this regard it is recommended for the development to retain tree No. 27 and for the development to be designed to ensure the protection of trees Nos. 37, 39 and 41 proposed to be retained. These trees form a significant group of trees in the central part of the site and are worthy of preservation.

The BGHF trees to be removed would be subject to replacement in the landscaping for the proposed development. The proposed removal of 58 trees is otherwise considered acceptable for the proposed development.

3.2 Built Environment

3.2.1 Redevelopment

The existing retirement village includes four to five storey residential flat buildings and hostel accommodation constructed during the 1970s. The older buildings lack integration with the more recent residential care facility and have been subject to ad-hoc additions and are outdated in terms of aged care service provision.

The proposed redevelopment would provide an integrated and functional development with appropriate services and facilities for Seniors Living and would contribute to the built environment.

3.2.2 Traffic Generation and Car Parking

The site has frontage to Pennant Hills Road and to Frith Avenue and Jasmine Road which form a U through road link with Pennant Hills Road. The intersection of Jasmine Road and Pennant Hills Road is controlled by traffic lights.

The concurrence of Roads and Maritime Services has been obtained for the proposed development subject to requirements.

The proposal includes the demolition of four existing dwelling houses and residential flat buildings containing 83 dwellings and a hostel building containing 66 beds. The peak hour traffic generation potential of the proposed demolition buildings is 19 to 37 trips, using Roads and Maritime Services traffic generating rates. The demolished buildings are to be replaced with 111 Seniors Living dwellings. The proposal also includes six short stay studio rooms. An additional 9 staff are estimated for the development. The peak hour traffic generation potential of the proposed dwellings is 11 to 22 trips. The net generation in peak hour vehicle trips is therefore likely to be between 8 and 15 trips less than existing trip generation.

In accordance with the *Seniors Living SEPP* the car parking requirement is 0.5 car parking spaces for each bedroom or 1 car parking space for each 5 dwellings where the development application is made by a social housing provider. The applicant, Uniting Care Aging is a registered community housing provider. The projected car parking requirement for the proposed development, in accordance with the Seniors Living SEPP criteria, is 27.1 spaces.

The basement car parking areas of the proposed development would provide 90 to 130 car parking spaces. The proposed car parking provision is considered adequate for the proposed development.

The final car parking provision would be detailed in the development application for Stage 2.

The proposed development would include the demolition and clearing of existing buildings, other structures and services. A Construction Traffic Management Plan is recommended as a consent condition for Stage 1 of the proposed development.

The proposal is considered acceptable in respect to traffic generation and car parking.

3.3 Social Impacts

The proposed development would provide improved services and facilities for the existing retirement village and increase capacity for provision for on-site support services for an aging population. The proposal would be of positive social benefit for the wider community.

3.4 Economic Impacts

The proposal would have a minor positive impact on the local economy in the construction of the development and in the provision of local employment.

4. SITE SUITABILITY

Section 79C(1)(c) of the Act requires Council to consider “the suitability of the site for the development”.

The site is an existing retirement village site and suitable for the proposed development.



5. PUBLIC PARTICIPATION

Section 79C(1)(d) of the Act requires Council to consider “any submissions made in accordance with this Act”.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 14 June and 5 July 2012 in accordance with Council's Notification and Exhibition Development Control Plan. The amended plans were notified between 10 October and 24 October 2012. Council received 10 submissions in response to the proposed development. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN			
• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
ONE SUBMISSIONS RECEIVED OUT OF MAP RANGE			

Ten submissions objected to the development, generally on the following grounds that the development would result in:

- Development prohibited in the Residential A (Low Density) Zone;
- Development inconsistent with the residential character of the area;
- Lack of available on-street car parking and increase traffic;
- Loss of privacy and overshadowing;
- Over-development of Frith Street.

The merits of the matters raised in community submissions have been addressed in the body of the report. It should be noted the concerns regarding traffic and car parking would be more fully addressed in Stage 2 of the development with the submission of design details for the proposed car parking provision of 90 to 130 spaces.

5.2 Public Agencies – Roads and Maritime Services

The development application is subject to concurrence of Roads and Maritime Services (RMS) in respect to the status of Pennant Hills Road as a Classified Road pursuant to State Environmental Planning Policy (Infrastructure) 2007. The RMS advised of concurrence to the proposal subject to recommended requirements.

It should be noted the RMS requirements would be required to be addressed in a development application for Stage 2 of the proposed development.

6. THE PUBLIC INTEREST

Section 79C(1)(e) of the Act requires Council to consider “*the public interest*”.

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

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

7. CONCLUSION

The proposed development is for the redevelopment of the Bowden Brae Retirement Village, Normanhurst, as a staged development application.

The existing retirement village was constructed in the 1970s and expanded in 2004 with the addition of a 100 bed residential care facility fronting Frith Avenue, and includes a 66 bed hostel and residential flat buildings containing 83 dwelling fronting Pennant Hills Road and Jasmine Avenue.

Stage 1 of the proposed development is for the development concept for building envelopes, siting of buildings, proposed uses and demolition of the existing aged care accommodation and dwelling houses. The proposed buildings are two to six storey.

Stage 2 of the proposed development is subject to a future development application and is for further demolition work, construction of four buildings comprising 111 independent living units, basement car parking and other facilities including a chapel, men's shed, library, café, wellness centre, dementia day care centre, pool and gymnasium.

The proposed development is in compliance with the design principles of the *Seniors Living SEPP* and *SEPP 65 Design Quality Residential Flat Development* and is considered satisfactory in respect to the Frith Avenue streetscape and the surrounding residential environment in terms of the existing retirement village development and the scale and built form of the proposed development. The proposed variation to the 0.9:1 floor space ratio development standard is considered acceptable with regard to the submitted *SEPP 1* objection which is well founded.

Ten submissions were received in response to the proposed development.

The application is recommended for approval.

ATTACHMENTS

1. Locality Plan
2. Existing Site Plan
3. Demolition Plan
4. Site Plan
5. Floor Level Plans (9)
6. Roof Plant Plan
7. Roof Plan
8. Tree Assessment Plan
9. Sections (2)
10. Photomontage (2)
11. Artist Impression
12. Peer Review Urban Design

SCHEDULE 1

STAGE 1

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, the term 'applicant' means any person who has the authority to act on or the benefit of the development consent.

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 and endorsed with Council's stamp, except where amended by Council and/or other conditions of this consent:

<i>Plan No.</i>	<i>Drawn by</i>	<i>Dated</i>
A-DA-PS-02 Demolition Plan Stage 1	PTW Architects	03/09/2012

<i>Document No.</i>	<i>Prepared by</i>	<i>Dated</i>
D01940301 Waste Management Plan	Waste Audit And Consultancy Sevices	May 2012

2. Dilapidation Report

A 'Dilapidation Report' is to be prepared by a 'chartered structural engineer' detailing the structural condition of the adjoining property at No. 19 Frith Street Normanhurst.

3. Erosion and Sediment Control

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 up to \$1,500 may be issued for any non-compliance with this requirement without any further notification or warning.

4. Construction Work Hours

All work 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.

5. Demolition

All demolition work must be carried out in accordance with *Australian Standard 2601-2001 – The Demolition of Structures* and the following requirements:

- a. Demolition material is to be disposed of to an authorised recycling and/or waste disposal site and/or in accordance with an approved waste management plan.
- b. Demolition works, where asbestos material is being removed, must be undertaken by a contractor that holds an appropriate licence issued by *WorkCover NSW* in accordance with Chapter 10 of the *Occupational Health and Safety Regulation 2001* and Clause 29 of the *Protection of the Environment Operations (Waste) Regulation 2005*.
- c. On construction sites where buildings contain asbestos material, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm must be erected in a prominent position visible from the street.

6. Environmental Management

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* by way of implementing appropriate measures to prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction of the development.

7. Council Property

During construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath.

8. Construction Traffic Management Plan

A Construction Traffic Management Plan is to be submitted to Council for the Stage 1 demolition work detailing, inter alia, heavy vehicle traffic routes, employee parking areas, truck standing areas, construction site access points, detour arrangements (if required), traffic control measures, duration of traffic disruption, contingency and emergency measures and method of public notification.

The Plan is to be endorsed by Council's Traffic and Road Safety Branch prior to commencement of demolition works.

9. Works near Trees

All required tree protection measures are to be maintained in good condition for the duration of the construction period.

All works (including driveways and retaining walls) within 4 metres of any trees required to be retained (whether or not on the subject property, and pursuant to this consent or the *Tree Preservation Order*), must be carried out under the supervision of an 'AQF Level 5 Arborist' and a certificate submitted to the principal certifying authority detailing the method(s) used to preserve the tree(s).

Note: Except as provided above, the applicant is to ensure that no excavation, filling or stockpiling of building materials, parking of vehicles or plant, disposal of cement slurry, waste water or other contaminants is to occur within 4 metres of any tree to be retained.

10. Street Sweeping

Street sweeping must be undertaken following sediment tracking from the site along Frith Avenue and Jasmine Road during works and until the site is established.

STAGE 2

11. Development Application

A development application must be submitted for construction of the development generally in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

Plan No.	Drawn by	Dated
A-DA-00 Revision C Site Plan	PTW Architects	25/09/2012
A-DA-01 Revision C Level 1 Plan	PTW Architects	25/09/2012
A-DA-02 Revision C Level 2 Plan	PTW Architects	25/09/2012
A-DA-03 Revision C Level 3 Plan	PTW Architects	25/09/2012
A-DA-04 Revision C Level 4 Plan	PTW Architects	25/09/2012
A-DA-05 Revision C Level 5 Plan	PTW Architects	25/09/2012
A-DA-06 Revision C Level 6 Plan	PTW Architects	25/09/2012
A-DA-07 Revision C Level 7 Plan	PTW Architects	25/09/2012
A-DA-08 Revision C Level 8 Plan	PTW Architects	25/09/2012
A-DA-09 Revision C Level	PTW Architects	25/09/2012

9 Plan		
A-DA-10 revision C Roof Plant Plan	PTW Architects	25/09/2012
A-DA-11 Revision C Roof Plan	PTW Architects	25/09/2012
A-DA-20 Revision C Sections 1	PTW Architects	25/09/2012
A-DA-21 Revision C Sections 2	PTW Architects	25/09/2012

12. Amendment of Plans

The approved plans are to be amended as follows:

- a. The development must be amended to retain Tree No. 27.

- 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 80A of the Act.

Tree Preservation Order

To ensure the maintenance and protection of the existing natural environment, it is an offence to ringbark, cut down, top, lop, remove, wilfully injure or destroy a tree outside 3 metres of the approved building envelope without the prior written consent from Council.

Note: A tree is defined as a single or multi-trunked wood perennial plant having a height of not less than three (3) metres, and which develops many branches, usually from a distance of not less than one (1) metre from the ground, but excluding any plant which, in its particular location, is a noxious plant declared as such pursuant to the Noxious Weeds Act 1993. This definition of 'tree' includes any and all types of Palm trees.

All distances are determined under Australian Standard AS4970-2009 "Protection of Trees on Development Sites".

Fines may be imposed for non-compliance with Council's *Tree Preservation Order*.

Asbestos Warning

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

www.environment.nsw.gov.au

www.nsw.gov.au/fibro

www.adfa.org.au

www.workcover.nsw.gov.au

Alternatively, telephone the *WorkCover* Asbestos and Demolition Team on 8260 5885.