

**JOINT REGIONAL PLANNING PANEL
(Sydney West Region)**

JRPP No.:	2013SYW075 DA
Development Application No.	DA/725/2013 (Lodged 16 July 2013)
Description of Proposal:	Demolition of existing buildings, retention of heritage dwelling 'Strathnoon' and construction of a 125 bed residential care facility.
Property Description:	Pt Lot 1 DP 315877, No. 31 Pacific Highway, Wahroonga Lot 1 DP 780083 and Lot 2 DP 780083, No. 33 Pacific Highway, Wahroonga Lot 2 DP 800575, No. 2 Woolcott Avenue, Wahroonga Lot 2 DP 548937 No. 2A Woolcott Avenue, Wahroonga
Applicant:	Northside Constructions Pty Ltd
Owner:	Thompson Health Care Pty Ltd
Statutory Provisions:	State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 State Environmental Planning Policy No. 55 Remediation of Land State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy - Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River Hornsby Shire Local Environmental Plan 1994 - Residential B (Medium Density) and Residential A (Low Density) zone
Estimated Value:	\$20,600,000
Number of submissions	18
Recommendation	Approval
Report Author:	Cassandra Williams
Instructing Officers:	James Farrington - Group Manager Rod Pickles - Manager Assessments

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

1. The application proposes a residential care facility.
2. The proposal complies with the provision of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.
3. Eighteen submissions have been received in respect of the application.
4. It is recommended that the application be approved.

RECOMMENDATION

THAT Development Application No. 725/2013 for demolition of existing buildings, retention of heritage dwelling 'Strathnoon' and construction of a 125 bed residential care facility at Pt Lot 1 DP 315877 and Lot 1 and 2 DP 780083, Nos. 31 and 33 Pacific Highway, Wahroonga and Lot 2 DP 800575 and Lot 2 DP 548937 No. 2 and 2A Woolcott Avenue, Wahroonga be approved subject to the conditions of consent detailed in Schedule 1 of this report.

HISTORY OF THE SITE

The applicant, Thompson Health Care currently operates an existing 42 bed capacity nursing home at No. 31 Pacific Highway. The existing nursing home incorporates a local item of heritage, being a dwelling named "Strathnoon" that has been adapted as a component of the current nursing home complex.

Lots 1 and 2 DP 780083 No. 33 Pacific Highway were formerly developed and used as a motel and are the subject of DA 878/2007 (as modified) permitting the demolition of the motel structure and the construction of 33 residential apartments over 3 floors with two basement car parking levels with 40 parking spaces. Work pursuant to this consent has commenced with the demolition of the existing buildings.

Nos. 2 and 2A Woolcott Ave are currently occupied by dwelling houses.

THE SITE

The site has an area of 6,925.2m² and is located on the western side of Pacific Highway at Wahroonga. The site has a frontage to Pacific Highway of approximately 85.9m, a northern boundary of 49.5m, a frontage to Woolcott Avenue of approximately 29.8m and a western boundary of 119.7m. The site falls generally from the east (Pacific Highway) to the west (rear) and a public pathway runs alongside the northern boundary of the site.

The site is surrounded by a variety of land uses. The property to the north contains a retirement village. The properties to the west include dwellings at low and medium densities and a residential flat building adjoins the site to the south at Nos. 27 -29 Pacific Highway.

The site is well vegetated with the exception of the motel site which is cleared and devoid of vegetation. The nursing home site includes an established garden in the front setback which is to be retained.

PROPOSAL

The application proposes the demolition of the current site improvements with the exception of the heritage dwelling that is to be retained and refurbished as a heritage item and utilised as a component of the nursing home entry/administration facility and construction of a 125 bed residential care facility.

The new building will be constructed to the northern boundary within the site with an integrated basement car park and landscape surrounds. The accommodation is grouped into a series of wings radiating from a central entry and reception foyer. Individual accommodation rooms are oriented to the exterior of the site or internally to an internal landscaped courtyard.

This court yard provides for both the amenity of the rooms that are oriented onto the space as well as the opportunity for an outdoor sitting area in conjunction with established garden associated with the heritage building.

The residential accommodation is complemented by a series of lounge areas, dining areas, staff training area, patient activity room, library and chapel with attendant utility areas including communal kitchen, store, laundry, loading and waste storage facilities.

The home is a specialist care facility catering for people with high dependency needs including residents suffering from dementia. In addition to residential care and accommodation the operation includes the provision of a range of extended services including physiotherapy, aromatherapy and podiatry services, entertainment, hairdressing and beautician services and access to a range of related health care services and medical professional services on an individual patients needs basis. All residents of the home require assistance in their daily activity.

The residential care facility will have a permanent nursing/staffing roster with an operational complement of 125 persons over 3 shifts per day to cater for the 125 room capacity facility including:

- Director of Nursing
- Deputy Director of Nursing
- Clinical nurse specialist
- 28 registered nurses
- 55 nursing assistants
- Receptionist
- 8 activity coordinators
- 7 cleaners
- 3 laundry staff
- 17 kitchen staff
- 1 maintenance person
- 1 aromatherapist
- 1 educator

Vehicular access to the visitor car park will be provided from Woolcott Avenue whilst access for staff parking, ambulance/ service vehicles will be via the Pacific Highway.

ASSESSMENT

The development application has been assessed having regard to the 'Metropolitan Plan for Sydney 2031', 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 2031 and (Draft) North Subregional Strategy

The *Metropolitan Plan for Sydney 2031* 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 2031; 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*.

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 *Metropolitan Plan for Sydney 2031*.

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 regulations".

2.1 Hornsby Shire Local Environmental Plan 1994

The subject land is zoned Residential B (Medium Density) and Residential A (Low Density) under the *Hornsby Shire Local Environmental Plan 1994 (HSLEP)*.

The objectives of the Residential B zone are:

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

The objectives of the Residential A zone are:

- to provide for the housing needs of the population of the Hornsby area.*
- 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 'housing for aged and differently abled persons' under the *HSLEP* and is permissible in the both the Residential B (Medium Density) and Residential A (Low Density) zones with Council's consent and the proposed development complies with the zones' objectives.

The proposal is permitted pursuant to Clause 4 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* where land is zoned for urban purposes and where residential development is permitted. The provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* prevail to the extent of any inconsistency with the *HSLEP*.

Clause 18 of *HSLEP* sets out heritage conservation provisions within the Hornsby area. The property at No. 31 Pacific Highway, Wahroonga is listed as a heritage item (*Strathnoon*) of Local significance under the provisions of Schedule D of the *HSLEP*. The subject site is also located in the vicinity of heritage items *House* at No. 23 Pacific Highway, Wahroonga and *House* at No. 25 Pacific Highway, Wahroonga.

The Heritage Advisory Committee considered the application at its meeting on 3 September 2013 where it resolved that consideration of the proposal be deferred pending submission of a fully detailed heritage impact statement which describes and justifies the integration of the new development, the impact on original and significant fabric and a schedule of restoration works for what would be a significant alteration to a heritage listed item of local significance.

The applicant subsequently submitted a Schedule of Conservation Works that includes a detailed analysis of the existing fabric, proposed conservation and adaptive works to be carried out to the heritage listed house.

Council's heritage assessment concluded that the c1990s additions proposed to be replaced by the new chapel are of moderate significance being a sympathetic extension to the original house to facilitate the adaptive re-use. However, the c1990s extension does not contain any significant or original fabric and as such, replacement with a new sympathetic extension would have no adverse impact on the heritage significance of the original house. The chapel addition will not dominate the original house and is of a design that will complement the heritage item in terms of bulk, scale, form, detail and materials. Accordingly, no objections are raised on heritage grounds.

2.2 Hornsby Local Environmental Plan 2013

The *Hornsby Local Environmental Plan 2013* was made on 27 September 2013 and came into effect on 11 October 2013. The *HLEP* includes a savings provision stating that if a development application is made and not finally determined before the commencement of the *HLEP*, the application must be determined as if the Plan had been exhibited but not commenced. The relevant provisions of the *HLEP* are addressed below.

2.2.1 Zoning

The site is zoned part R2 - Low Density Residential and part R3 - Medium Density Residential pursuant to the Land Use Table of the *HLEP*. The proposed development is defined as 'Seniors Housing.' Seniors Housing is prohibited under the *HLEP* in the R2 zone and

permissible in the R3 zone with Council consent. Notwithstanding, the proposal is permissible under the *State Environmental Planning Policy - Housing for Seniors or People with a Disability 2004*.

2.2.2 Height of Building

Clause 4.3 of the *HLEP* provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for that part of the site zoned R2 is 8.5m and for that part of the site zoned R3 is 10.5m. The proposal would not comply with this provision.

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

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HS&PD) is the overriding 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 buildings. *SEPP HS&PD* is comprehensive in scope including land use planning provisions, design principles, development standards and standards specifically to meet the housing needs of aged and disabled people. *SEPP HS&PD* also includes design guidelines for infill development.

For the purposes of assessment against the *SEPP HS&PD* the proposed development is defined as '*Residential Care Facilities*'. The assessment of the proposal in accordance with the relevant requirements of the *SEPP HS&PD* is commented on as follows:

2.3.1 Clause 26 Location and access to facilities

The development will provide residential accommodation, meals, cleaning and nursing care as well as all furnishings and equipment to cater for residents domiciled on site. The home is a specialist care facility catering for people with high dependency needs including residents suffering from dementia. In addition to residential care and accommodation the operation includes the provision of a range of extended services including physiotherapy, aromatherapy and podiatry services, entertainment, hairdressing and beautician services and access to a range of related health care services and medical professional services on an individual patients needs basis. All residents of the home require assistance in their daily activity.

The site is serviced by regular and frequent bus services within 400m of the proposed development and the site is within 600m walking distance of Waitara Station.

The proposal complies with the provisions of Clause 26.

2.3.2 Clause 33 Neighbourhood amenity and streetscape

Part of the consolidated site is already developed and used as a nursing home. As such the proposed use as a 'residential care facility' forms an integral component of the established land use pattern in this locality and is complemented by the proximity of independent senior housing adjacent to the immediate north of the site. The height, bulk and scale of the proposed built form reflect the scale of the approved medium density housing on the site and as anticipated by the *HLEP*. The nature of the intended land use coupled with the proposed height and bulk of the structure being well articulated results in an outcome that is not

inconsistent with the character of the locality being of a mixed use associated with land use and building addressing the highway directly and the adjacent residential area.

The setbacks as proposed respond to the established character of the locality and the siting of the adjacent dwellings. The details provide for appropriate spatial separation to neighbouring dwellings in terms of access to light, sunlight and visual privacy. The landscape treatment to the curtilage areas of the building as proposed will reinforce the streetscape setting of the locality. As such, the proposal has addressed the neighbourhood amenity and streetscape so as to be compatible with the existing natural and built environment.

2.3.3 Clause 34 Visual and acoustic privacy

The proposed building form coupled with the landscape details and setbacks results in spatial separations across the boundaries that provide adequate space for the effective landscape setting of the development and separation between neighbouring buildings.

Service vehicle access and loading areas are sited adjacent to the northern boundary adjoining a public pathway to minimise acoustic impacts.

The proposal complies with the provisions of Clause 34.

2.3.4 Clause 35 Solar access and design for climate

The design of the development provides for adequate opportunity for residents to access sunlight both within individual rooms, within the communal courtyard and lounge areas and within the garden area associated with 'Strathnoon'.

The submitted shadow diagrams demonstrate that the proposed development would have a minor overshadowing impact to neighbouring dwellings in the early morning of the winter period and that these shadows are completely off the adjacent sites by 11am. Furthermore, other than in mid winter there are limited impacts to the yard areas of the adjacent dwellings.

The proposal complies with the provisions of Clause 35.

2.3.5 Clause 36 Stormwater

Adequate arrangements have been proposed for the management of stormwater within the site including water detention, rainwater collection and siltation control measures. Council's engineering assessment raised no objections to the proposal in this regard.

2.3.6 Clause 37 Crime prevention

The development is well secured with a central entrance arrangement allowing for visitors to be placed in main foyer/ reception area. This allows the staff and residents to have increased passive surveillance and familiarity of frequent guests. Other security measures to be implemented include: secure locking and key card access to external doors after hours and to the main entry doors as well as camera surveillance within the entry lobby and reception area.

The proposal is satisfactory in this regard.

2.3.7 Clause 38 Accessibility

The development provides for interconnecting corridors on a single level with associated patient and staff areas on each level and linked vertically with a series of lifts. The building

remains fully accessible with the internal layout satisfying the applicable standards of the *Building Code of Australia* and the *Disability Discrimination Act*.

2.3.8 Clause 39 Waste Management

Adequate waste storage and collection facilities are available on the site and Council's Waste Management Team raised no objection to the proposal in this regard.

The proposal complies with the provisions of Clause 39.

2.3.9 Clause 40 - Development standards

The proposal complies with the standards in respect to the site area being greater than the minimum 1,000m² required and site frontage of 20m at the building line, as the site has an area of 6,925.2m² and a site frontage of approximately 85.9m to Pacific Highway.

Clause 40 (4) specifies height requirements in zones where residential flat buildings are not permitted. A residential flat building is defined as a building containing two or more self contained dwellings. Residential flat buildings in the form of multi-unit housing are permissible in both the Residential A (Low Density) zone and the Residential B (Medium Density) zone and Clause 40 (4) is therefore not applicable.

Development standards concerning access and useability for residential care facilities are not specified in *SEPP HS&PD*. The policy refers to the Commonwealth aged care accreditation standards and the *Building Code of Australia* for relevant standards. The proposed development complies or can be appropriately designed to comply with the criteria of the relevant standards.

2.3.10 Clause 48 - Standards that cannot be used to refuse development consent for residential care facilities

Compliance with the controls is discussed below:

Clause	Control	Standard	Proposed	Compliance
48(a)	Building Height	8m	10m	No
48(b)	Density (FSR)	1:1	0.98:1	Yes
48(c)	Landscape Area (25m ² per bed)	125 beds = 3,125m ²	3204m ²	Yes
48(d)	Parking (1 space per 10 beds; 1 space per 2 employees; and 1 space for ambulance)	35 spaces and 1 ambulance bay	61 spaces	Yes

As indicated above the proposed development fails to satisfy the numerical controls for building height as identified under Clause 48(a) of the *SEPP HS&PD* which is discussed below:

2.3.10.1 Building Height

As indicated above, *SEPP HS&PD* prescribes that a consent authority must not refuse consent to a development on the basis of height if the proposed development has a building height which is less than 8m.

SEPP HS&PD defines building height to mean '*the vertical distance from any point of the ceiling of the topmost floor of the building to the ground level immediately below that point*'.

The proposed development ranges in height from 2 storeys to 3 storeys. The maximum height of the building is toward the north western corner of the structure where the building has a height of 9.145m and 10m (Sections AA and BB) and 3 residential storeys over a basement car park and service area. The height of the Woolcott Ave building (section CC) is generally 7.5m and 2 residential storeys over a basement car park.

The *HLEP* stipulates a maximum building height of 10.5m for the R3 zoned portion of the site and 8.5m for the R2 zoned portion of the site. Pursuant to these provisions, the building provides for a maximum height of 10.88m (Section BB) for the R3 zoned portion of the site and 9.5m (Section CC) for the R2 zoned portion of the building. In the circumstances a determination of the height proposed by the application becomes a discretionary issue for the consent authority.

Whilst exceeding the height control prescribed under Clause 48 of *SEPP HS&PD* the height of the proposed development is considered reasonable given that Council has previously approved a development application for a prior residential flat building that was commenced at No. 33 Pacific Highway. The DA provided for a flat roofed building to a maximum height of RL 199.10 with lift over run to RL 200.8 and highlight roof windows details to RL 200.1. The setback to the rear boundary of the site approved by this development maintained 7m to the building with ground floor courtyard/garden spaces associated with individual apartments extending into this space, and first floor balconies and top floor terraces to individual units aligned to this rear boundary. The top floor level units approved a floor level of RL 195.9, to be compared to the proposed eave height of the nursing home at RL 200.1 and top floor level at RL 197.4. The adjustments in height arise from the maintenance of the heritage dwelling and its established floor level at RL 194.18 setting the level for the proposed universal level 2 floor plan of the residential care facility. The revised setbacks along this common rear boundary are varied from 6.1m to 13m but without incursion of courtyard or terrace spaces oriented to this boundary. The setback to the existing nursing home across the common rear boundary is increased from a minimum 3m to 8.16m.

It is further noted that the subject control is not a development standard per se but rather is a control that cannot be used to refuse an application where the control is satisfied.

2.4 State Environmental Planning Policy No. 55 Remediation of Land

The policy provides guidelines for the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Clause 7 requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land.

Should the land be contaminated Council must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken

to make the land suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

Given the site has a history of residential use; it is not likely that the site has experienced any significant contamination, and further assessment under SEPP 55 is not required.

2.5 State Environmental Planning Policy (Infrastructure) 2007

The application has been assessed against the requirements of State Environmental Planning Policy (Infrastructure) 2007. This Policy contains State-wide planning controls for developments adjoining busy roads.

Pursuant to the provisions of Clause 102 of the *Infrastructure SEPP* the land use proposed by the application is not *residential accommodation* as defined by the Model Template definitions but is separately defined as a *residential care facility* and *seniors housing* and accordingly is not development to which the operation of the *Infrastructure SEPP* is directly attributable. In addition the traffic threshold for the average daily volume for the intersection of the F3 and Pennant Hills Road (Pearces Corner) is slightly lower (38,912 AADT) than the 40,000 vehicles threshold referred to by the *Infrastructure SEPP*.

Notwithstanding it is accepted that given the function of the facility and the reference to hospitals, at Clause 102, indicates care needs to be taken to ensure noise and vibration from the roadway is properly considered. In that respect the applicant's intention is to double glaze the facility which will be air conditioned and climate controlled to suit the need of the residents and will accede to a condition concerning the acoustic performance of the facility to meet the standards of Clause 102 (3) (a) and (b) of the *Infrastructure SEPP*.

The development is not classified as a Traffic Generating Development in accordance with Clause 104 and Schedule 3 of SEPP Infrastructure. Therefore, referral of the application to the RMS is not required.

2.6 Sydney Regional Environmental Plan No. 20 Hawkesbury Nepean River

The application has been assessed against the requirements of *Sydney Regional Environmental Plan No. 20 (SREP 20)*. This Policy provides controls to protect the environment of the Hawkesbury-Nepean system, including its water quality. The Plan addresses matters related to water quality, significant vegetation habitats, extraction, environmental heritage and scenic quality, recreation and tourism, and agriculture.

The proposed development includes a satisfactory stormwater management plan and is consistent with the objectives of the *SREP 20* subject to implementation of conditions regarding erosion and sediment control measures on site.

2.7 Clause 74BA Environmental Planning and Assessment Act, 1979 - Purpose and Status of Development Control Plans

On 1 March 2013, the *Environmental Planning and Assessment Act, 1979* was amended so that a DCP provision will have no effect if it has the practical effect of "*preventing or unreasonably restricting development*" that is otherwise permitted and complies with the development standards set out in relevant Local Environmental Plans and State Environmental Planning Policies. The principal purpose of a development control plan is to provide guidance on the aims of any environmental planning instrument that applies to the

development; facilitating development that is permissible under any such instrument; and achieving the objectives of land zones under any such instrument.

The provisions of a development control plan made for that purpose are not statutory requirements.

2.8 Heritage Development Control Plan

The primary purpose of the DCP is to manage heritage in Hornsby Shire and to provide guidance and outline specific controls for development relating to heritage items. Issues relating to heritage have been discussed in detail in Section 2.1 of this report.

2.9 Car Parking Development Control Plan

The primary purpose of this DCP is to provide parking controls for development. The proposed development complies with the Performance Criteria provisions and Element Objectives of Council's Car Parking Development Control Plan.

2.10 Access and Mobility Development Control Plan

The *Access and Mobility Development Control Plan* applies to the proposed development. The development control plan does not provide standards specific to Housing for Older People or People with a Disability. *SEPP HS&PD* and *Australian Standards 1428 and 4299*, provides those standards. Subject to compliance with the recommendations of the submitted Access Report, the proposed development would comply with the relevant standards.

2.11 Waste Minimisation and Management Development Control Plan

The primary purpose of this Development Control Plan is to provide planning strategies and controls to promote waste minimisation and management.

A waste management plan has been submitted to provide an overview of anticipated construction management strategies for works associated with the demolition and construction of the development, as well as details of on-going waste management on site.

The development includes a bin storage room and waste would be collected by a nominated contractor.

The application complies with the requirements of Council's *Waste Management and Minimisation Development Control Plan*.

2.12 Sustainable Water Development Control Plan

The DCP aims to achieve the implementation of sustainable water practices into the management of development in the Hornsby Shire. Subject to provision of erosion and sediment control measures during the demolition and construction phases of the development, the proposal would satisfy the provisions of the DCP.

2.13 Section 94A Contributions Plan 2012 - 2021

The Hornsby Shire Council Section 94A Development Contributions Plan 2012 - 2021 came into force on 5 September 2013. The S94A Plan applies to additions and alterations to residential development, alterations to commercial development, industrial development, residential care facilities, and any other development.

The S94A Plan includes a savings provision stating that if an application is made and not finally determined before the commencement of the S94A Plan, the application must be determined as if the S94A Plan had been exhibited but not commenced. Therefore, a contribution would not be required to be paid.

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 site and adjoining properties comprises a number of exotic, native planted trees and locally indigenous specimens and the adjoining site contains a group of remnant trees numbered 1, 2, 3, 4, 5 and 6 determined as significant under Hornsby Councils' Assessment of a Significant Group of Trees.

The proposed development would necessitate the removal of 76 trees from the site. Two trees to be removed are identified as 'significant trees' under Council's Assessment of a Significant Group of Trees. Council's assessment of the proposal included a detailed examination of the existing trees on site and considered that the removal of the trees is acceptable and that subject to the recommended conditions in Schedule 1 the proposed development would not have a significant impact upon the natural environment.

3.2 Built Environment

3.2.1 Building Design

The principle elevation to the Pacific Highway presents as part 2 and 3 storey building, setback on an alignment consistent with the alignment of the heritage dwelling and such that a minimum building line to the street of 9m is maintained extending to 18m to the heritage dwelling. The building form provides for a linear footprint based upon a level linking corridor, with rooms oriented from these central avenues.

The building detailing is consistent with a residential development as opposed to an institutional structure providing for a pitched roof building utilising metal roofing and face brickwork with the detailing of the heritage building to match the specialist schedule to retain and refurbish that building. The building is articulated along its extended north south axis by the staging of setbacks, inclusion of bay windows providing seating areas to individual rooms, recessed terrace spaces to communal and dining rooms and a staging of roofing details to the western elevation.

The building maintains an average setback over its 115m length to the western boundary of 8.34m and a minimum boundary setback to the northern footpath of 6.3m. The front boundary setback averages 13.7m. The setback to the dwellings at the rear is increased from that presently provided by the existing nursing home that extends to a minimum 3m setback.

A detailed landscape plan accompanies the application and provides for the facility to sit within a landscape setting with the landscape maturing to a height in excess of the built form. The landscape plan also includes the detail of the heritage garden associated with the local

heritage item and which is to be retained and utilised as an outdoor space associated with the nursing home residents.

3.2.2 Traffic

An Assessment of Traffic and Parking Implications Report (ATPI) prepared by Transport and Traffic Planning, Rev B dated November 2013 was submitted with the application. The ATPI estimates that the proposed development would generate some 21-22 vehicle trips per hour (vtph) in the AM peak hour and 27-28 vtph in the afternoon peak period. Discounting this generation for the existing site use gives a nett traffic generation of 1 or 2 vtph. Council's traffic assessment concluded that traffic generation is not considered to be an issue with the proposed development.

Access to the porte cochere is from Pacific Highway with left in and left out only. Drop off and pick up of residents would occur at the porte cochere, as would ambulance parking. The staff car park, bus bay and loading dock are also accessed from Pacific Highway via left in/left out turns only and visitor parking spaces would be accessed from Woolcott Avenue.

All entry and exit movements from the two driveways are to be in a forward direction. The porte cochere is a circular driveway and the driveway for service vehicles has a turning area to allow forward in/forward out vehicular movements.

SEPP HS&PD has a parking requirement of 1 space per 10 beds, plus 1 space per 2 employees, plus 1 ambulance space for a residential care facility. The SEPP reduces to parking to 1 space per 15 beds where the facility provides accommodation exclusively for dementia patients, giving a parking requirement of either 33 or 29 parking spaces plus 1 ambulance spaces. The development proposes 61 car parking spaces. Accordingly, total parking spaces provided exceeds that required by SEPP HS&PD.

Council's traffic assessment concluded that subject to the recommended conditions the proposal would have minimal impacts to the existing local road network and is considered to be acceptable in this regard.

3.3 Social Impacts

The development would make a positive social contribution to the local community by providing housing for older persons and persons with disabilities and will have a positive social impact on the locality.

3.4 Economic Impacts

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

4. SITE SUITABILITY

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

There is no known hazard or risk associated with the site with respect to landslip, subsidence, flooding and bushfire that would preclude development of the site.

The proposed development is located within 400m of bus services, which provide transport to surrounding shopping facilities, and services, and community and health facilities and services at Hornsby.

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 8 August 2013 and 29 August 2013 in accordance with Council’s *Notification and Exhibition Development Control Plan*. During this period, Council received 18 submissions. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

<ul style="list-style-type: none"> • PROPERTIES NOTIFIED 	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
4 SUBMISSIONS RECEIVED OUT OF MAP RANGE			

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

- Development that is excessive in bulk and scale
- Unacceptable noise from activities at the facility
- Amenity impacts including overlooking and overshadowing
- Visual and acoustic privacy impacts
- Traffic and parking issues, particularly in Woolcott Avenue
- Traffic generation
- Change in streetscape in the low density residential area
- Use of Nos. 2 and 2A Woolcott for commercial purposes
- Sewerage and stormwater impacts
- Air quality

Two submissions supported, or were neutral to the development and made the following observations:

- The exhaust fan from the laundry be located to discharge into the car park or onto the lane or the Pacific Highway due to potential odour;
- Request that Council make Woolcott Avenue 'No parking' on one side of the road and move the double lines;
- Request that Council impose a condition of consent requiring screen planting to block sound and lights for Netherby Street residents.
- Fencing on the western boundary is quite low due to the fall of the land and it was requested that the developer consults with the Strata with regard to the boundary fencing so that an agreement can be reached about its replacement.
- Request that consideration be given to the Bangalow Palms (T34, 35 and 38 being removed and more suitable trees planted in line with the heritage of the building. The submission also requested that tree No. 39 (Camphor Laurel) be pruned on the adjoining property's side to reduce its shading and amenity impacts.
- Requests provision of sufficient parking on site during and after construction, so that existing street parking on Woolcott Avenue and the Pacific Highway is not further congested.

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

5.1.1 Additional traffic is to be directed into Woolcott Avenue from the development.

Staff parking is accessed from the Pacific Highway and visitor parking is accessed from Woolcott Avenue. Visitors have discretion as to visiting times and are likely to avoid school peak traffic generation times.

5.1.2 The volume of traffic entering this precinct combined with those exiting to the Highway has developed considerably over the years and has reached saturation point.

Peak traffic generation will occur during school arrival and departure times. This is typically spread over about 1 hour in the AM peak and concentrated over 20 to 30 minutes in the PM school peak.

5.1.3 The area is also becoming a parking area for the local school, staff and visitors to the three aged care facilities located on the Pacific Highway.

Current on street parking can be controlled by parking restrictions when necessary. The only specific parking issue raised has been on Woolcott Avenue between Pacific Highway and the bend at No. 30. Subject to LTC approval the barrier line on the bend in Woolcott Avenue is to be relocated so that parking can occur adjacent to the line.

5.1.4 I also believe that Emergency Services would find it difficult to enter and exit the property.

It is envisaged that emergency services will access to development from the Pacific Highway.

5.1.5 Existing access from Pacific Highway should be utilised to provide adequate ingress and egress to the site, not Woolcott Avenue.

The RMS has requested all access from Woolcott Avenue. Pacific Highway is an RMS road and Council cannot dictate access requirements to RMS.

5.1.6 The entry into the car park from Woolcott Avenue will be dangerous and a source of significant congestion.

Sight distance is acceptable and in accordance with the relevant Australian Standards. Congestion is only likely to occur during a relatively short period associated with school drop off and pick up.

5.1.7 Traffic in Woolcott Avenue is already at a high level at various points of the day. Both morning and afternoon we have a 15-25 minute traffic jam extending from Pacific highway to the school.

This is a common occurrence during school pick up and drop off times, and is considered acceptable for the relatively short periods involved.

5.1.8 The school creates significant parking density for much of the day

The school has proposed building a car park accessed off Unwin Road. When constructed this should reduce parking demand in the Woolcott Avenue precinct.

5.1.9 The road is used (I suspect illegally) by taxi drivers and a bus company, mini bus and stretched limo.

Vehicles less than 12.5 long and less than 4.5 tonnes are able to park for any length of time subject to parking restriction signs. Vehicles over this length and weight are able to park for 1 hour subject to parking restriction signs.

5.1.10 Hazardous conditions especially for residents exiting driveways and because of the need to pull out wide as you drive up the hill towards the Highway.

Parking restrictions have been proposed that would prevent vehicles having to cross the barrier lines as vehicles approach Pacific Highway.

5.1.11 I would also point out that the college generates a good deal of foot traffic so at the beginning and end of the day there are usually groups of students walking on the road.

A paved footpath is provided on the north side of Woolcott Avenue. There is therefore no need for students to walk on the road pavement.

5.1.12 A vehicle turning left from Pacific Highway into Woolcott Avenue and traffic crossing the highway from Ingram Road may not be able to clear the intersection, causing delays for highway traffic.

It is illegal to enter an intersection if the exit is not clear. Police enforce this rule.

5.1.13 Will 'Keep Clear' road signage sections be installed given the additional traffic exiting from the complex car park, and will 'No Stopping' signs be installed at the highway end of Woolcott Avenue on both sides, as parked vehicles force drivers to cross double white lines on a blind corner?

"Keep Clear" road marking will not be installed at the driveway to the proposed development. Changes to the barrier line have been included as a condition of consent.

5.1.14 Council make Woolcott Avenue 'No Parking' on one side of the road and move the double lines.

Changes to the barrier line have been included as a condition of consent.

5.2 Public Agencies

5.2.1 Roads and Maritime Service

The application was referred to the Roads and Maritime Service (RMS) for comment and preliminary advice indicated that RMS would not grant concurrence to the proposed vehicular crossing on Pacific Highway under Section 138 of the *Roads Act 1993* as the current practise is to limit the number of vehicle conflict points along the arterial road network to maintain efficiency and road safety. The RMS recommended that all vehicle entry/ exit should be via the driveway on Woolcott Avenue.

The applicant submitted an addendum traffic report and the RMS provided the following advice:

1. *'In regards to the two driveways on Pacific Highway, RMS will only support one driveway access for service vehicles and the other driveway access for emergency vehicles only, as previously mentioned. All other vehicles are to access the development via Woolcott Ave including staff car parking.*
2. *The S-lane along Pacific Highway at the driveways is to be removed and "No Stopping" restriction to be imposed along the Pacific Highway road frontage of the development.*

3. *The truck turning path is based on a non-standard 8m rigid truck. The development needs to provide a driveway and loading dock that can service the Austroads 8.8m rigid truck with the ability to enter and leave in a forward direction at the Pacific Highway vehicular driveway. '*

The applicant's position is to retain the proposed traffic access arrangements for the following reasons:

- Achieve a consolidation and reduction of access points from the pre-existing situation off the highway.
- The access arrangements from the highway represent a reduction in the intensity of the prior approvals for the site particularly the elimination of an access to a former motel use and the approved alternate use of 33 Pacific Highway for 40 resident and visitor parking spaces associated with a 33 unit residential apartment complex.
- The formal entry to the nursing home is largely ceremonial and would be a relatively infrequently used access for patient pick up and set down including ambulance parking.

Clause 101 of *SEPP Infrastructure* requires the consent authority to be satisfied as to the opportunity for alternate access other than the main road; the safety and efficacy of the access as proposed and measures to ameliorate the impacts of noise and vehicle emissions on the development per se. As previously stated the development is not classified as a Traffic Generating Development in accordance with Clause 104 and Schedule 3 of *SEPP Infrastructure*.

The applicant contends that in their opinion the referral of the application to RMS is advisory only and the consent authority can determine the application having regard to the matters as required by Clause 101 and to advice from RMS. However RMS does not have a concurrence role in the determination of the application.

Council's traffic assessment raised no objection to the access arrangement proposed for the development and with the exception of staff parking accessed via the Pacific Highway, the application has been amended and appropriately worded conditions imposed in Schedule 1 to address the advice provided by the RMS.

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 development would be in the public interest.

CONCLUSION

The application proposes the demolition of existing buildings, retention of heritage dwelling 'Strathnoon' and construction of a 125 bed residential care facility, including associated car parking and landscape works.

The development generally complies with the objectives and controls contained in *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* and the *Hornsby Local Environmental Plan 1994* and is satisfactory having regard to the matters for consideration pursuant to Section 79C of the *Environmental Planning and Assessment Act, 1979*.

Council received 18 submissions during the public notification period and appropriate controls and conditions are recommended to minimise disruption to residential amenity.

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

Note: At the time of the completion of this planning report, no persons have made a *Political Donations Disclosure Statement* pursuant to Section 147 of the *Environmental Planning and Assessment Act 1979* in respect of the subject planning application.

Attachments:

1. Locality Plan
2. Architectural Plans
3. Landscape Plan
4. Shadow Diagrams

SCHEDULE 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.

2. 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:

Architectural Plans prepared by Geoffrey Martin + Associates Pty Ltd

Plan No.	Plan Title	Rev	Dated
DA02	Site Analysis	C	10 February 2014
DA03	Western Boundary Sections	B	10 February 2014
DA04	Floor Plan - Basement	C	10 February 2014
DA05	Floor Plan - Level 1	C	10 February 2014
DA06	Floor Plan - Level 2	C	10 February 2014
DA07	Floor Plan - Level 3	B	10 February 2014
DA08	Elevations + Sections	B	30 August 2013
DA09	Elevations + Sections	B	30 August 2013
DA10	Roof Plan	B	10 February 2014
DA14	Heritage House Plans and Elevations	A	4 October 2013

Landscape Plans prepared by Jackie Amos Landscape Architect

Plan No.	Plan Title	Rev	Dated
1302-03	Basement Landscape Plan	A	undated
1302-04	Level 1 Landscape Plan	A	undated
1302-05	Level 2 Landscape Plan	A	undated

Supporting Documents

Document Title	Prepared by	Dated
Detail Survey Plan No. SY073117.00 Sheets 1 & 2	Land Partners	1 June 2012
Landscape Design Intent including cross-sections, elevations and plant species (Ref No. 1302-01 - 1302-02 and 1302-06 - 1302-12, Issue A	Jackie Amos Landscape Architect	undated
Arboricultural Impact Assessment Sheets 1-13	Footprint Green Pty Ltd	15 July 2013
Assessment of Traffic and Parking Implications Ref: 12174 Rev B	Transport and Traffic Planning Associates	November 2013
Stormwater Management Report Rev A	Mott MacDonald	8 May 2013
Civil Works Plans Project No. 321337 Dwg No. 0100 - 0102, 0105, 0110 - 0111, 0130 - 0132 and 0160 - 0161, Rev P1	Mott MacDonald	8 May 2013
Statement of Heritage Impact	NBRS + Partners	July 2013
Schedule of Conservation Works	NBRS + Partners	October 2013
Waste Management Plan	Northside Constructions Pty Ltd	11 November 2012

3. Qualified Heritage Consultant

The high priority and adaptive works outlined within the *Schedule of Conservation Works* prepared by NBRS + Partners, dated October 2013 (Sections 3.2 and 3.3 amended as detailed below) are carried out under the direction and supervision of a suitably qualified heritage consultant approved by an appropriate officer of Council.

4. Amendment of Plans

The approved plan No. DA14 - Heritage House Plans and Elevations, Rev A, prepared by NBRS + Partners, dated 4 October 2013 and the *Schedule of Conservation Works* prepared by NBRS + Partners, dated October 2013 are to be amended as follows:

- a) Retention of original window and associated timber joinery to western wall in Room 6.
- b) Retention of wall nibs to the eastern and western ends of the north wall to be removed in Room 6.
- c) Retention of the original multi-panel top light and associated timber joinery located within Room 7 – East-West Hall.
- d) Retention of the original door, architraves and top light to southern wall in Room 8.
- e) Re-use original door and associated timber joinery to be removed from Room 4.
- f) Original timber floor boards to be exposed where possible.

5. Conservation Works

Any significant fabric that is removed and not re-used as part of the conservation works should be recorded and stored on site for reinstatement should future circumstances permit.

6. Removal of Existing Trees

This development consent only permits the removal of tree(s) numbered 9, 10, 11, 12, 13-25, 27-37, 43,43.1, 45, 47-53, 55-90 as identified on the tree locations & reference number plan sheet 2 of 13 contained within the Arboricultural Impact Assessment prepared by Footprint Green Pty Ltd dated 15 July 2013. The removal of any other trees requires separate approval under Council's Tree Preservation Order.

7. Project Arborist

A Project Arborist is to be appointed prior to commencement of any works in accordance with the *AS 4970-2009* (Section 1 - 1.4.4) and to provide monitoring and certification throughout the development process.

8. Construction Certificate

A Construction Certificate is required to be approved by Council or a Private Certifying Authority prior to the commencement of any works under this consent.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE
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9. Building Code of Australia

All building work must be carried out in accordance with the relevant requirements of the Building Code of Australia.

10. Utility Services

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

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

11. Sydney Water – Quick Check

This application must be submitted to a *Sydney Water* ‘Quick Check Agent’ or ‘Customer Centre’ for approval to determine whether the development would affect any *Sydney Water* infrastructure, and whether further requirements are to be met.

Note: Refer to www.sydneywater.com.au or telephone 13 20 92 for assistance.

12. Dilapidation Report

A ‘Dilapidation Report’ is to be prepared by a ‘chartered structural engineer’ detailing the structural condition of all adjoining properties.

13. Car Parking and Deliveries

All car parking must be constructed and operated in accordance with *Australian Standard AS 2890.1- 2004 Off Street Car Parking* and *Australian Standard 2890.2 - 2002 Off Street Commercial vehicle facilities* and the following requirement:

- a) All parking areas and driveways are to be sealed to an all weather standard, line marked and signposted.
- b) Car parking, loading and manoeuvring areas to be used solely for nominated purposes.
- c) Vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads;
- d) All vehicular entry on to the site and egress from the site shall be made in a forward direction.
- e) All parking spaces for people with disabilities must be constructed and operated in accordance with *AS/NZS 2890.6:2009 – Off-street parking for people with disabilities*.
- f) Provision for an ambulance is to be made in accordance with the requirements of *ASNSW Ambulance Access*.
- g) Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpaths

14. Traffic Management Plan

A construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for determination prior to the issue of a Construction Certificate

15. Waste Management Plan

The following waste management requirements must be complied with:

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

16. Preservation of Survey Infrastructure

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

17. Noise – Busy Roads

The development must be carried out in accordance with the requirements of the Clause 102(3) of *State Environmental Planning Policy (Infrastructure) 2007* to ensure that the following LAeq levels are not exceeded:

- a) in any bedroom in the building - 35 dB(A) at any time between 10pm and 7am,
- b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40 dB(A) at any time.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS
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18. Erection of Construction Sign

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- a) Showing the name, address and telephone number of the principal certifying authority for the work;

- b) Showing the name of the principal contractor (if any) for any demolition or building work and a telephone number on which that person may be contacted outside working hours; and
- c) Stating that unauthorised entry to the work site is prohibited.

Note: Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

19. Protection of Adjoining Areas

A temporary hoarding, fence or awning must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

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

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

20. Toilet Facilities

Toilet facilities must be available or provided at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet for every 20 persons employed at the site. Each toilet must:

- a) be a standard flushing toilet connected to a public sewer; or
- b) be a temporary chemical closet approved under the *Local Government Act, 1993*; or
- c) have an on-site effluent disposal system approved under the *Local Government Act, 1993*.

21. 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.

22. Tree Protection Barriers

- a) Tree protection fencing must be erected around trees numbered 1-6, 38, 39, 40, 41, 42, 44, 46, 54 and 91 to be retained at the measured TPZ setback.

The tree fencing must be constructed of 1.8 metre 'cyclone chainmesh fence'.

- b) To avoid injury or damage, tree numbered 46 must have trunks protected by 2 metre lengths of 75mm x 25mm hardwood timbers spaced at 80mm secured with galvanised wire (not fixed or nailed to the tree in any way).
- c) Once erected, tree protection fencing must not be removed or altered without the approval of the Project Arborist.
- d) A certificate from the Project Arborist (AQF 5) is to be submitted to the Principal Certifying Authority stating that all tree protection measures are in accordance with AS 4970-2009 (Section 4) prior to the commencement of works.

REQUIREMENTS DURING CONSTRUCTION

23. 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.

24. Construction Vehicles

All construction activity associated with the proposed development is to be contained on site as no construction zones will be permitted on Pacific Highway or Woolcott Avenue in the vicinity of the site.

25. 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 must 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*; and
- 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.

26. 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.

27. Street Sweeping

Street sweeping must be undertaken following sediment tracking from the site along Woolcott Avenue and the Pacific Highway during works and until the site is established.

28. Works Near Trees

- a) All required tree protection measures are to be maintained in good condition for the duration of the construction period.
- b) Tree sensitive construction techniques such as pier and beam construction and hand excavation are to be undertaken for all works within the TPZ of trees numbered 1- 6.
- c) To ensure any work undertaken will not adversely affect the longevity of the trees, the driveway is to be laid on existing grade with no excavation or fill within the TPZ of any tree to be retained, OR pier and beam construction of the driveway within the measured TPZ of trees numbered 1-6 shall be used with piers being located no closer than 3 metres to the trunks of the trees. The driveway edge shall not extend further than the northern boundary of the subject property. The excavation for the piers within the measured TPZ of these trees shall be hand dug to reveal the presence of any roots.
- d) No tree roots of 30mm or greater in diameter located within the measured TPZ, shall be severed or injured in the process of any site works during the construction period. Tree roots between 10mm and 30mm diameter, severed during excavation, shall be cut cleanly by hand. A qualified and experienced arborist is to be on-site overseeing the work to ensure that the roots are cut cleanly and that the works will not adversely affect the longevity of trees.
- e) All works (including driveways and retaining walls) within the measured TPZ 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).
- f) The excavation for the installation of underground services within the specified TPZ of any tree to be retained on the subject property or neighbouring property, shall be carried out using the thrust boring method. Tunnel boring shall be carried out at least 1 metre beneath natural ground surface at the trees to minimise damage to trees root systems.
- g) Should the excavation of any other works be approved within the specified TPZ of any tree to be retained on the subject property or neighbouring property, excavation by hand ONLY shall be undertaken and under the supervision of the project arborist.

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.

29. Council Property

During construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath. The public reserve must be kept in a clean, tidy and safe condition at all times.

30. Disturbance of Existing Site

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

31. Landfill

Landfill must be constructed in accordance with Council's *'Construction Specification, 2005'* and all fill material imported to the site is to wholly consist of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material approved under the *Department of Environment and Climate Change's* general resource recovery exemption.

32. Excavated Material

All excavated material removed from the site must be classified in accordance with the Department of Environment, Climate Change and Water NSW *Waste Classification Guidelines* prior to disposal to an approved waste management facility and reported to the principal certifying authority.

33. Survey Report – Finished Floor Level

A report(s) must be prepared by a registered surveyor and submitted to the principal certifying authority prior to the pouring of concrete at each level of the building certifying that:

- a) The building, retaining walls and the like have been correctly positioned on the site; and
- b) The finished floor level(s) are in accordance with the approved plans.

34. Waste Management

Waste management during the demolition and construction phase of the development must be undertaken in accordance with the approved Waste Management Plan. Additionally written records of the following items must be maintained during the removal of any waste from the site and such information submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works:

- a) The identity of the person removing the waste.

- b) The waste carrier vehicle registration.
- c) Date and time of waste collection.
- d) A description of the waste (type of waste and estimated quantity).
- e) Details of the site to which the waste is to be taken.
- f) The corresponding tip docket/receipt from the site to which the waste is transferred (noting date and time of delivery, description (type and quantity) of waste).
- g) Whether the waste is expected to be reused, recycled or go to landfill.

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

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

Note: For the purpose of this consent, a reference to 'occupation certificate' shall not be taken to mean an 'interim occupation certificate' unless otherwise stated.

35. Sydney Water – s73 Certificate

A s73 Certificate must be obtained from Sydney Water.

Note: Sydney Water requires that s73 applications are to be made through an authorised Sydney Water Servicing Coordinator. Refer to www.sydneywater.com.au or telephone 13 20 92 for assistance.

36. Stormwater Drainage

The stormwater drainage system for the development must be designed and constructed in accordance with Council's *Civil Works – Design and Construction Specification 2005* and the following requirements:

- a) The system must be designed and constructed for an average recurrence interval of 20 years and be gravity drained.
- b) Connected to an existing Council piped drainage system.
- c) Be designed by a qualified Chartered Hydraulic/ Civil Engineer of the Institution of Engineers, Australia.
- d) The footpath within the pedestrian pathway through which stormwater pipe is proposed to be constructed shall be replaced with new one.
- e) A 100 year ARI overland flow path is to be constructed over the proposed stormwater pipe that is located within the Council pathway for full blockage of any pipes smaller than 750mm in diameter and 50% for bigger pipes. The design is to ensure that overland flow is contained within the path and does not overflow to adjoining properties. In the event any overland is proposed to be directed through private properties, necessary easements shall be created with the affected owner/s consent/s at developer's cost.

- f) A construction certificate application is to be submitted to Council for drainage works within Council's road/ lane/ pathway reserve.

Note: Council is the only authority who can issue a construction certificate for works within its road/ lane/ footway reserve.

37. On Site Stormwater Detention

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

- a) Storage capacity to accommodate volume from up to 20 years ARI (average recurrence interval) and a maximum discharge (when full) limited to 5 years pre development rate.
- b) Have a surcharge/inspection grate located directly above the outlet.
- c) Discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.
- d) Where above ground and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs to be installed.
- e) Not be constructed in a location that would impact upon the visual or recreational amenity of residents.
- f) Detailed calculations are to be shown in construction certificate plans.

38. Storm Water Quality from Site

Storm water leaving the site shall be treated to achieve performance targets as set out in Table 1C.1.2(b) Urban Stormwater Quality Targets, of Council's Hornsby Development Control Plan 2013.

39. Vehicular Crossing

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

- a) Any redundant crossings must be replaced with integral kerb and gutter;
- b) Approval must be obtained from all relevant utility providers that all necessary conduits be provided and protected under the crossing.

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

40. Internal Driveway/Vehicular Areas

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

- a) Design levels at the front boundary must be obtained from Council;
- b) The driveway must be a rigid pavement;
- c) The driveway grade must not exceed 25 percent and changes in grade must not exceed 8 percent;

41. Footpath, Kerb and Gutter and Nature Strip

The following works are to be constructed in accordance with Council's *Civil Works Design and Construction Specification, 2005* and the following requirements:

- a) The existing footpath along Pacific Highway and Woolcott Avenue fronting the development site are to be replaced.
- b) Replacement of kerb and gutter along Pacific Highway to the requirements of RMS (if not required by RMS, evidence be provided to Council).
- c) Damaged sections of nature strip (grass) shall be returfed.
- d) Any public utility adjustments to be carried out at the cost of the applicant and to the requirements of the relevant public authority.
- e) A road occupancy permit is to be obtained from RMS to carry out works along Pacific Highway frontage (If RMS does not require such permits, written evidence be provided to Council).

42. Traffic Control Plan

A Traffic Control Plan (TCP) must be prepared by a qualified traffic controller in accordance with the *Roads & Traffic Authority's Traffic Control at Worksites Manual 1998* and *Australian Standard 1742.3* for all work on a public road and be submitted to Council. The TCP must detail the following:

- a) Arrangements for public notification of the works.
- b) Temporary construction signage.
- c) Permanent post-construction signage.
- d) Vehicle movement plans.
- e) Traffic management plans.
- f) Pedestrian and cyclist access/safety.

43. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed road pavement, kerb & gutter, overland flowpath, drainage systems, driveways and on-site detention system.

44. Creation of Easements

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

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

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

45. Certificate of Preservation of Survey Marks

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

46. Waste Management Details

The following waste management requirements must be complied with:

- a) The garbage/recycling bin storage room must include a robust door, sealed and impervious surface, adequate lighting and ventilation, water or a hose for cleaning, graded floors with drainage to sewer.
- b) A report must be prepared by an appropriately qualified person, certifying the following:
 - i) A comparison of the estimated quantities of each waste type against the actual quantities of each waste type.
Note: Explanations of any deviations to the approved Waste Management Plan is required to be included in this report
 - ii) That at least 60% of the waste generated during the demolition and construction phase of the development was reused or recycled.

Note: If the 60% diversion from landfill cannot be achieved in the Construction Stage, the Report is to include the reasons why this occurred and certify that appropriate work practices were employed to implement the approved Waste Management Plan. The Report

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

iii) All waste was taken to site(s) that were lawfully permitted to accept that waste.

c) The bin carting routes must be devoid of any steps.

Note: Ramps between different levels are acceptable

d) "No Parking" signs are to be placed in the loading bay and turning area to discourage cars from being parked there.

47. Woolcott Avenue Barrier Line Relocation

Subject to Local Traffic Committee approval the barrier line on the bend in Woolcott Avenue is to be relocated so that parking can occur adjacent to the line.

48. Maintain Canopy Cover

The submitted Landscape Plans prepared by Jackie Amos Landscape Architect Issue A, dated must be adhered to.

49. Final Certification

The project arborist must assess the condition of trees and their growing environment and make recommendations for, and if necessary carry out remedial actions.

Following the final inspection and the completion of any remedial works, the project arborist must submit to the Principal Certifying Authority documentation stating that the completed works have been carried out in compliance with the approved plans and specifications for tree protection as above and *AS 4970-2009*.

50. Food Premises

The fit out and operation of that part of the building to be used for the manufacture, preparation or storage of food for sale, must be in accordance with *Australian Standard 4674-2004 – Design and fit out of food premises*, the *Food Act 2003*, and the *Food Regulation 20010 and the Food Standards Code developed by Food Standards Australia New Zealand. Food Standards 3.3.1. 3.2.2 and 3.2.3* are mandatory for all food businesses.

Note: Walls are to be of solid construction.

51. Grease Trap & Dry Basket Arrestor Installation

An application must be submitted to *Sydney Water* for the installation of a grease trap and dry basket arrestor (floor and sink) in accordance with the '*Guidelines for the On-Site Pre-Treatment of Trade Wastewater Discharges – Sydney Water (May 2004)*'.

52. Kitchen Exhaust Installation

A kitchen exhaust system must be designed and installed to effectively prevent air pollution in accordance with the *Protection of the Environment Operations Act 1997*.

53. Restriction on Occupation – Housing for Seniors or People with a Disability

A restriction as to user must be created under s88B of the *Conveyancing Act 1919* and registered, requiring the dwellings approved under this consent to be solely used for the accommodation of:

- a) Seniors (55+ age) or people with a disability.
- b) Staff employed to assist the administration and provision of services to housing provided under *SEPP (Housing for Seniors or People with a Disability) 2004*.

Note: The restriction must nominate Council as the authority to release, vary or modify the restriction.

54. Fire Sprinkler System

The residential care facility must have a fire sprinkler system installed and operational.

OPERATIONAL CONDITIONS

55. Noise – Plant and Machinery

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

56. Fire Safety Statement - Annual

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

57. On-going Waste Management

- a) All commercial tenants must keep written evidence on site of a valid contract with a licensed waste contractor(s) for the regular collection and disposal of the waste and recyclables that are generated on site.
- b) The site must have a sufficient number of bins to contain the volume of waste and recycling expected to be generated between collection services.
- c) Waste collection services must be carried out using waste collection vehicles that can enter the site in a forward direction, turn around and exit the site in a forward direction (that is, have a turning circle equivalent to or less than a small rigid vehicle). If the commercial tenant is not able to engage an affordable waste collection service provider to comply with this requirement, then a bin collection area is to be constructed on the site next to the driveway within 6 metres of the property boundary (and with appropriate screening),

from which the bins can be serviced using a standard large waste collection vehicle parked on the Pacific Highway (which widens at the front of this site).

- 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.

Environmental Planning and Assessment Act, 1979 Requirements

The Environmental Planning and Assessment Act, 1979 requires:

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

Long Service Levy

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

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

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

Tree and Vegetation Preservation

In accordance with Clause 5.9 of the *Hornsby Local Environmental Plan 2013* a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation protected under the Hornsby Development Control Plan 2013 without the authority conferred by a development consent or a permit granted by Council.

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

Tree protection measures and distances are determined using the Australian Standard AS 4970:2009, "Protection of Trees on Development Sites".

Fines may be imposed for non-compliance with both the Hornsby Local Environmental Plan 2013 and the Hornsby Development Control Plan 2013.

Disability Discrimination Act

The applicant's attention is drawn to the existence of the *Disability Discrimination Act*. A construction certificate is required to be obtained for the proposed building/s, which will provide consideration under the *Building Code of Australia*, however, the development may not comply with the requirements of the *Disability Discrimination Act*. This is the sole responsibility of the applicant.

Covenants

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this consent. Applicants must rely on their own enquiries as to whether or not the building breaches any such covenant.

Dial Before You Dig

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

Telecommunications Act 1997 (Commonwealth)

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

Asbestos Warning

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

www.environment.nsw.gov.au

www.nsw.gov.au/fibro

www.adfa.org.au

www.workcover.nsw.gov.au

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

Food Authority Notification

The *NSW Food Authority* requires businesses to electronically notify the Authority prior to the commencement of its operation.

Note: NSW Food Authority can be contacted at www.foodnotify.nsw.gov.au.

Rain Water Tank

It is recommended that water collected within any rainwater tank as part of the development be limited to non-potable uses. *NSW Health* recommends that the use of rainwater tanks for drinking purposes not occur where a reticulated potable water supply is available.