

JOINT REGIONAL PLANNING PANEL (Sydney West)

JRPP No	2014SYW025
DA Number	DA/1434/2013 (Lodged on 20/12/2013)
Local Government Area	Hornsby Shire Council
Proposed Development	Demolition of existing structures and construction of a residential care facility with 106 beds and basement car parking
Street Address	Lot A DP 420924, Nos. 9-17 Hinemoa Avenue, Normanhurst
Applicant/Owner	Allity Aged Care Pty Ltd
Number of Submissions	2
Regional Development Criteria (Schedule 4A of the Act)	Capital Investment value of the Development - \$ 27,220,000
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 • State Environmental Planning Policy No. 1 – Development Standards • State Environmental Planning Policy No. 55 -Remediation of Land • Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 • Hornsby Local Environmental Plan 2013 – R2 Low Density Residential • Hornsby Development Control Plan 2013 • Section 94A Contributions Plan 2012-2021
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Locality Plan – 1 page • Survey Plan – 1 page • Tree Location Plan – 1 page • Landscape Plans – 4 pages • Floor Plans - 5 pages • Elevations and Sections – 4 pages • Height non-compliance diagrams – 3 pages • Shadow Plan and elevation shadows – 8 pages • Perspectives - 2 pages • Streetscape – 1 page
Recommendation	Approval
Report by	Aditi Coomar

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

1. The application proposes a residential care facility with 106 beds and basement car park.
2. The proposal does not comply with the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* with regard to Clause 40 - Development Standards (Height). An objection pursuant to *State Environmental Planning Policy No. 1* has been submitted to support the development, which is considered well-founded.
3. Two submissions have been received in respect of the application.
4. It is recommended that the application be approved.

RECOMMENDATION

THAT Council assume the concurrence of the Director-General of the Department of Planning pursuant to *State Environmental Planning Policy No. 1* and approve DA/1434/2013 for demolition of existing structures and construction of a residential care facility with 106 beds and basement car parking at Lot A DP 420924, 9-17 Hinemoa Avenue, Normanhurst subject to the conditions of consent detailed in Schedule 1 of this report.

HISTORY OF THE SITE

The site has been used as a convalescent home since 1967. Multiple development consents have been granted for alterations and additions to the premises since 1967.

On 5 May 2004 Council approved DA/1404/2003 for the demolition of existing structures and construction of a residential care facility comprising 97 beds under the provisions of *State Environmental Planning Policy No. 5*. The proposal comprised two part two/three storey buildings connected by walkways. The consent was not acted upon and lapsed in 2009.

The applicant, Allity Aged Care Pty Ltd. currently operates an existing 51 bed capacity aged care facility on the site named "Greenwood Nursing Home".

THE SITE

The site, known as the "Allity Greenwood Facility", has an area of 7,177m² and is located on the eastern side of Hinemoa Avenue at Normanhurst. The site is rectangular in shape with a frontage of 79.13m to Hinemoa Avenue and a secondary frontage to Havilah Avenue. The site has a cross fall of about 9m from west (Hinemoa Avenue) to east (Havilah Avenue), the highest point being the north-western corner. The site is well vegetated with a number of significant trees located amidst extensive lawn areas.

The existing improvements on the site include a 51-bed aged care facility accommodated in two x 2-storey buildings connected by an enclosed walkway. An at grade on-site car parking facility is located at the south-western corner, being accessed from Hinemoa Avenue.

The site is surrounded by residential land uses comprising single and two storey dwelling houses. A medium density multi-unit development is located to the north of the site comprising 12 dwellings. Two, single storey dwelling houses adjoin the southern boundary of the site.

THE PROPOSAL

The application proposes the demolition of the current site improvements and construction of a 106 bed residential care facility with two separate basement car parks accommodating 32 car spaces. 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 facility includes the provision of a range of extended services, related health care services and medical professional services on an individual patient's needs basis. All residents of the home require assistance in their daily activities.

The new building will be constructed in a "U" shaped configuration around a north facing courtyard. The gross floor area of the building would be 6790m².

The building would generally be two storeys in height with a minor three storey section along the Havilah Avenue frontage. The main pedestrian entrance to the reception and lobby area of the building would be from Hinemoa Avenue (western side). The accommodation is grouped into three wings connected by corridors and lifts at all levels. Individual accommodation rooms are oriented to the exterior of the site or internally to a landscaped courtyard in the following way:

- 17 single bed rooms at the Lower ground level (Dementia unit with restricted access);
- 48 single bed rooms at the Ground Level; and
- 41 single bed rooms at Level one.

The residential accommodation is complemented by multiple lounge areas, dining areas, staff area, patient activity rooms, resident café, spa and wellness centre, beauty salon, therapy rooms including specialist consultation rooms, respite/cinema area, rooftop activity garden, kitchen, store, laundry, loading and waste storage facilities.

The central court yard includes outdoor sitting and circulation area with equipment for fitness and children's play. A covered walkway across the courtyard would connect the lobby area to the eastern wing. Private courtyards adjoin the ground level rooms fronting the southern boundary. The Hinemoa Avenue frontage would be landscaped with ground cover and ornamental shrubs.

Additionally a Dementia care garden with an area of 893m² and comprising raised planters, level paved areas with seating, horticultural therapy areas and interactive elements would adjoin the Dementia wing along the Havilah Avenue frontage.

The residential care facility would have a 24 hour, 7 day permanent nursing/staffing roster in 3 shifts per day (100 staff members in total) to cater for the 106 room capacity facility including:

- Director of Nursing - General Manager
- Care manager
- Clinical nurse specialist
- 7 registered nurses
- 31 nursing assistants
- 1 Receptionist plus 1 admin support
- 3 activity coordinators
- 4 cleaners
- 2 laundry staff
- 8 kitchen staff
- 1 maintenance person
- 3 recreational activities officers and a bus driver

Two separate vehicular entries are proposed from the two frontages leading to two basement level car parking areas. The car park fronting Hinemoa Avenue (western side) would accommodate 12 visitors' spaces with direct access to the lobby, whereas the car park fronting Havilah Avenue (eastern side) would accommodate 20 staff parking spaces including a bus bay. Additionally the basement levels would include storage, service areas and lifts. An ambulance bay is proposed under the porch in front of the main lobby.

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 *Hornsby Local Environmental Plan 2013*.

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 Local Environmental Plan 2013

2.1.1 Land Use Zones and Permissibility

The subject land is zoned R2 - Low Density Residential under *Hornsby Local Environmental Plan 2013 (HLEP)*. The objectives of the zone are:

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

The proposed development is defined as ‘Seniors Housing.’ Seniors Housing is prohibited under the *HLEP* in the R2 zone. Notwithstanding, 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 *HLEP*.

2.1.2 Height

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 the site is 8.5m. The proposal would not comply with this provision. The matter is discussed in Section 2.3 of this report.

2.1.3 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire. The site is not in the vicinity of a heritage item or conservation area and is not subject to consideration for heritage conservation. Therefore, no further evaluation is required in this regard.

2.2 State Environmental Planning Policy (Housing for Seniors or People with 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 *SEPP HS&PD* the proposed development is defined as '*Residential Care Facilities*'. The assessment of the proposal in accordance with the relevant requirements of *SEPP HS&PD* is provided as follows:

2.2.1 Clause 26 Location and access to facilities

The development would provide residential accommodation, meals, cleaning and nursing care as well as all furnishings and equipment to cater for residents domiciled on site. The specialist care facility would cater for people with high dependency needs including residents suffering from dementia. In addition to residential care and accommodation the use includes the provision of a range of extended services including various therapies, entertainment, spa and wellness services, outdoor recreational facilities, hairdressing and beautician services. Access to a range of related health care services and medical professional services on an individual patient needs basis would also be available. All residents of the facility require assistance in their daily activity. The application includes a statement detailing management of such facilities on the site.

The site is serviced by regular and frequent bus services; the bus stops being located approximately 120m from the subject site on Pennant Hills Road. Normanhurst Railway Station is located at a distance of 1.3km from the site. This is supplemented by a private 21 seat coaster bus service provided by the operator.

It is noted that the footpath on Hinemoa Avenue providing pedestrian access to the bus stop from the site is not suitable for disabled access. Accordingly, condition No. 12 is recommended requiring the construction of a 2m wide footpath along the eastern side of Hinemoa Avenue from the southern boundary of the site to Pennant Hills Road.

Given the above and the recommended condition, the proposal complies with the provisions of Clause 26.

2.2.2 Clause 33 Neighbourhood amenity and streetscape

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 on the site. The proposed development does not comply with the height requirements of *SEPP HS&PD*. However, the building generally represents a two storey frontage to both the streets. A third level is proposed fronting Havilah Avenue, being setback 16.5m from the boundary.

In order to reduce the overall bulk and scale, the building frontage is divided into three distinct blocks connected by glazed lightweight elements. Generous setbacks are maintained from the streets and the boundaries to retain reasonable neighbourhood amenity. The courtyard on the northern side would retain significant trees and contribute to the landscape setting of the site in line with the existing character of the locality.

The nature of the intended land use coupled with the well articulated façade design results in an outcome that is not inconsistent with the residential character of the locality. The photomontages and sections submitted with the application demonstrate that the proposed development would blend well with the existing streetscape pattern.

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 proposed landscape treatment to the curtilage areas of the building and the landscaped sandstone terraces along the frontages would reinforce the streetscape setting of the locality. The proposed landscape walls along the frontage are consistent with the character of the street. It is noted that the proposed landscape wall along the Havilah Avenue front boundary reaches a height of 1.7m due to the slope of the site along this street verge. Accordingly, a condition of consent is recommended requiring the height of the wall to be a maximum of 800mm above existing ground level to reduce visual obtrusiveness and improve sightlines of drivers (refer to condition No. 3a).

As such, the proposal has addressed the neighbourhood amenity and streetscape so as to be compatible with the existing natural and built environment.

2.2.3 Clause 34 Visual and acoustic privacy

The proposed “U” shaped building form around the northern courtyard retains significant trees and landscape features on the site. This coupled with the landscape details and setbacks results in adequate space for the effective landscape settings along the boundaries of the development and separation between neighbouring buildings.

Service vehicle access and loading areas are sited at the basement level to minimise acoustic impacts. The application is supported by a Noise Impact Assessment Report which states that subject to appropriate façade design and ventilation system design all the acoustic criteria would be achieved. Condition No. 14 is recommended to ensure that the proposed development complies with the recommendations of the Noise Impact Assessment Report.

Subject to the above, the proposal complies with the provisions of Clause 34.

2.2.4 Clause 35 Solar access and design for climate

The proposed building is to be located around a north-facing courtyard area. 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 areas.

Two single storey dwelling houses immediately adjoin the southern boundary of the subject site. The overshadowing impacts on both the dwelling houses are discussed below.

No. 40 Havilah Avenue

This dwelling house is located at an angle to the southern boundary and is separated from the development by a brick garage and driveway along its northern boundary. An in-ground pool is located on the southern side of this dwelling house which is overshadowed till 12pm on 22 June by the dwelling house itself. No additional overshadowing is envisaged due to the development in this regard. The submitted shadow diagrams indicate that the solar panels on the roof, the north facing windows and the yard area on the western side would receive in excess of 3 hours of solar access between 9am and 3 pm on 22 June.

No. 19 Hinemoa Avenue

The dwelling house is single storey and located at a distance of 1.4m from the southern boundary fence. The dwelling house includes three north facing windows. The deck and the yard are located on the eastern side.

The submitted shadow diagrams indicate that the northern windows are partially overshadowed by the existing southern boundary fence between 9am and 3pm on 22 June. The location of the building would result in additional overshadowing on the northern façade of the building. However the living areas, the private open space with the covered deck are orientated to the east and would receive approximately 4 hours of direct sunlight between 9am and 3pm on 22 June post redevelopment of the subject site. Given that sufficient solar access is provided to the primary living area and the private open space, the overshadowing impact is acceptable.

It is considered that the building has been sited reasonably so as to not restrict solar access to the adjoining sites. The occupants would also receive reasonable solar access.

The proposal complies with the provisions of Clause 35.

2.2.5 Clause 36 Stormwater

The stormwater from the development would be collected and drained to Havilah Avenue via an on-site detention system. 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.

2.2.6 Clause 37 Crime prevention

The development is well secured with a single entrance arrangement for visitors to be placed in the main foyer/ reception area adjacent to Hinemoa Avenue. This would allow the staff and residents to have increased passive surveillance and familiarity of frequent guests. Access to the residential areas from the lobby would be secured. The site planning has regard to crime prevention principles by including the central courtyard and separating the service areas from the main circulation areas. Other security measures to be implemented include secure locking and key card access to external doors after hours and to the main entry doors.

The proposal is satisfactory in this regard.

2.2.7 Clause 38 Accessibility

The development provides for interconnecting corridors 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 and outdoor layouts satisfying the applicable standards of the *Building Code of Australia* and the *Disability Discrimination Act*.

2.2.8 Clause 39 Waste Management

Adequate waste storage and collection facilities are available on the site. The submitted "Allity Plan of Management" nominates 3 x 660 litre garbage bins serviced 3 times per week and 2 x 660 litre recycling bins which would need servicing twice per week. The garbage storage facility would be located at the basement level fronting Havilah Avenue. The plans indicate that a medium rigid vehicle (MRV) is able to ingress and egress the site in a forward direction. Council's Waste Management Team raised no objection to the proposal in this regard subject to conditions of consent.

The proposal complies with the provisions of Clause 39.

2.2.9 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 7,177m² and a site frontage of approximately 79.13m to Hinemoa Avenue.

Clause 40 (4) specifies height requirements in zones where residential flat buildings are not permitted as follows:

- “(4) Height in zones where residential flat buildings are not permitted:*
- (a) the height of all buildings in the proposed development must be 8 metres or less, and*
 - (b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and*
 - (c) a building located in the rear 25% area of the site must not exceed 1 storey in height.”*

“Residential flat buildings” are not permissible in the R2 Low Density Residential zone and Clause 40 (4) is therefore applicable. Height is defined in the *SEPP HS&PD* as follows:

“height in relation to a building, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.

ground level means the level of the site before development is carried out pursuant to this Policy.”

Based on the above definitions the proposed building would result in a height of 6.6m - 11.6m which does not comply with Clause 40(4). The building also incorporates a minor third storey element fronting Havilah Avenue at a distance of 12m from the southern boundary and 16.5m from the street. This section includes 3 rooms, lift overrun and plant rooms, a living area and rooftop activity garden. The three storey section along Havilah Avenue has a maximum height limit of 9.5m. The 11.6m height limit applies to the lift overrun and plant room only. The remaining length of the façade fronting Havilah Avenue has a height varying between 8m – 9m.

The building height fronting Hinemoa Avenue is less than 8m. The entry to the basement car park fronting Hinemoa Avenue projects 1.36m above the natural ground level resulting in a 3 storey element at the lowest point of the site. However, the 3 storey section is contained within the 8m height limit.

Given that the building has two street frontages, Clause 40(4)(c) does not apply in this instance. The numerical non-compliance with regard to this development standard is primarily noted along the Havilah Avenue frontage.

The applicant has submitted an objection pursuant to *State Environmental Planning Policy No. 1 – Development Standards* supporting the variation in height limits. The matter has been discussed in Section 2.3 of this report.

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.

2.2.10 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	6.6m – 11.6m	No
48(b)	Density (FSR)	1:1	0.95:1	Yes
48(c)	Landscape Area (25m ² per bed)	2650 m ² (@ 25 m ² per bed)	3483 m ²	Yes
48(d)	Parking (1 space per 10 beds; 1 space per 2 employees; and 1 space for ambulance)	29 spaces and 1 ambulance bay	32 spaces and 1 ambulance bay	Yes

As indicated above the proposed development fails to satisfy the numerical controls for building height as identified under Clause 40(4) and Clause 48(a) of *SEPP HS&PD*. The non-compliance in height is supported and discussed in detail in Section 2.3 of this report.

2.3 State Environmental Planning Policy No.1 - Development Standards

The application has been assessed against the requirements of *State Environmental Planning Policy No.1 (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 Act. The relevant objectives of Section 5(a) of the Act are to encourage:

- “(i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
- (v) *the provision and co-ordination of community services and facilities,”*

The Aims of *SEPP HS&PD* encourage the provision of housing (including residential care facilities) that will:

- a) *increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
- b) *make efficient use of existing infrastructure and services, and*
- c) *be of good design.*

The proposed development would result in a building height of 6.6m – 11.6m which does not comply with the maximum permissible height of 8m as stipulated by Clause 40(4) “Development Standards - Height in zones where residential flat buildings are not permitted” within the SEPP HS&PD. The non-compliance primarily occurs along the Havilah Avenue frontage where the site slopes down towards the street. The applicant has submitted a SEPP 1 objection against the adherence to the “Height” development standard.

The applicant submits that strict compliance with the “Height” requirement is unreasonable and unnecessary for the following reasons:

- *“The subject site is unusually large being 7176.85m² (approximately 8 x size of typical residential lots in the area) which affords potential to accommodate for development of a larger built form mitigated by a combination of appropriate setbacks and landscaping. The proposed development is not considered an overdevelopment of the site and the design has been set amongst 3483m² of landscaped gardens with setbacks that reflect the existing character and development patterns of the neighbourhood.*
- *The development complies with all other development standards under SEPP HS&PD.*
- *The non-compliance with the SEPP HS&PD height limit of 8 metres for that part of the building fronting Havilah Avenue is small in comparison to the scale of the development and occurs where the fall of the natural ground level steepens. Notwithstanding, The building has been setback 4 metres and 12 metres respectively from the southern boundary in order to minimise any adverse impacts in terms of bulk and overshadowing to the principal private open space of 40 Havilah Avenue and 19 Hinemoa Avenue. To minimise any adverse impacts on the Havilah streetscape in terms of bulk, the building has been setback 4 metres from the northern boundary and 10 metres from Havilah Avenue on the ground level and 16.5 metres from level 1 to minimise any adverse impacts on the streetscape in terms of bulk.*
- *The development provides a generous landscape provision of 3483.23m² (48.53% of total site area) which significantly exceeds the SEPP HS&PD requirements and would mitigate visual impact of the higher built form when viewed from the street and the neighbouring properties.*
- *The building generally presents a two storey frontage to Havilah Avenue. There is a small three storey element located towards the south east corner of the building. The third storey element is setback 16.5 metres from Havilah Avenue and 9 metres from the southern boundary. Given the third storey element is significantly recessed from the levels directly below it is not clearly visible and still presents as a two storey*

building to Havilah Avenue. The significant setback minimises any adverse impacts on the streetscape and to the adjoining neighbours in terms of visual bulk, solar access and privacy.

- *The building generally presents a two storey frontage to Hinemoa Avenue. However, as the car park located in the south western corner extends greater than 1 metre above the existing ground level it is considered an additional storey under the SEPP HS&PD.*

“Clause 3(2) Interpretation

(2) In calculating the number of storeys in a development for the purposes of this Policy, a car park that does not extend above ground level by more than 1 metre is not to be counted as a storey.”

At its lowest point, the existing ground level directly below the car park is RL 191.84 and the car park ceiling is RL 193.2, resulting in a maximum protrusion of 1.36 metres. Despite being defined as a three storeys pursuant to the SEPP HS&PD definition, this part of the building does not exceed the Height control of 8 metres. Furthermore, the building at this point is setback 9 metres from the Hinemoa frontage and 4 metres from the southern boundary of 19 Hinemoa Avenue. It is considered the protrusion of the car park would not result in any adverse impacts on the streetscape or the adjoining neighbours in terms of visual bulk, solar access and privacy as it is sufficiently setback from the south and west boundaries, complies with the SEPP HS&PD height limit and is only 360mm departure from the acceptable 1 metre extension of a car park above existing ground level.

- *The U-shaped layout of the building avoids presenting a continuous building edge to the existing townhouse development north of the site. To the south, the building setback varies to break down the elevation presented to the existing dwellings.*
- *A strictly compliant development would not result in a significant reduction of amenity impacts; however it would reduce the number of high care/ dementia care beds.*
- *The proposed development would not result in any inconsistency with the underlying purpose of the development standard which is to ensure that the height of the development is consistent with the desired scale and character of the street and locality in which the buildings are located and there are no adverse impacts to the adjoining neighbours.*
- *Notwithstanding the above, the proposed design would not result in a development that is significantly out of context with the scale and nature of development in the area and as envisaged by the planning controls. The design achieves an overall scale that is complementary to the scale of development in the area”.*

Council has conducted a detailed planning assessment against the *SEPP 1* submission. 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 standard;*
2. *The underlying objective or the 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 would be 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, a particular parcel of land should not have been included in the particular zone.*

Having regard to the above points the following matters are considered relevant:

- The development is consistent with the objectives of Section 5 of *the Act* in that it encourages the improved management of urban land and promotes the orderly use of the otherwise underutilised land.
- The 3 storey element is well setback from the neighbouring property to the south.
- The non-compliance with the height limit does not result in an additional level or floor space and the proposal complies with the required floor space ratio. The additional height is contained within the roof form.
- The 3 storey element fronting Havilah Avenue is an extension to the first floor level fronting Hinemoa Avenue and occurs due to the building design following the natural slope of the site. The third level would be appropriately setback from the street and is not considered to be visually intrusive to the streetscape or the neighbouring properties.
- The building would not result in unreasonable overshadowing of the neighbouring properties, as discussed in Section 2.2.4 of this report. Privacy impacts are alleviated via careful location of windows.
- Stepping of the built form to reduce the height would result in multiple level changes within the building which would lead to non-compliance with disability and barrier free access standards. The roof form has also been varied to reduce the overall bulk of the development.

- The U shaped configuration of the building has been proposed to retain significant vegetation on the site located within the central courtyard. Relocation of the building within the central section would reduce the overall height of the building from the natural ground level; however this would result in the removal of significant natural vegetation elements, which is not desirable.
- The previously approved proposal on the site (DA/1404/2003) complied with the height control, but involved major excavation (7m) with most of the administrative areas and service areas located below ground level. The current application proposes a more contemporary built form to suit the needs of the future patients with reduced excavation works (a maximum of 5m for basement car park and kitchen laundry area only).
- Notwithstanding the height non-compliance, the application is a reasonable outcome for the site and achieves the aims of *SEPP HS&PD*. As such, the proposed development would result in a superior outcome for the site when compared to the existing nursing home.
- If the development were to strictly comply with the “height” requirements of *SEPP HS&PD* the proposal would result in underutilisation of the land and would not satisfy the broad objectives of the Act and the aims *SEPP HS&PD*.

Based on this assessment, it is considered that the applicant’s *SEPP 1* submission is well founded and that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case. Accordingly, the *SEPP 1* objection is supported.

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.

The application is supported by a “*Preliminary Contamination Screening and Waste Classification Assessment Report*” prepared by Environmental Investigation Services. The report concludes that the soil does not contain elevated level of contaminants or asbestos and that the relative level of soil contamination is very low.

Given the above and that the site has a history of use as a nursing home, it is not likely that the site has experienced any significant contamination, and further assessment under *SEPP 55* is not required.

2.5 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The application has been assessed against the requirements of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. This Plan ensures that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected and maintained.

The proposal is consistent with the aims and objectives of the Plan as the proposal would not have a detrimental impact upon the catchment, foreshores waterways or islands of Sydney Harbour.

2.6 Hornsby Development Control Plan 2013

The *Hornsby Development Control Plan 2013 (HDCP)* applies to all land within Hornsby Shire and will replace Council's existing *DCPs*, providing development controls to complement the *HLEP*. The *HDCP* has come into effect on 11 October 2013. The *HDCP* is generally a transition of Council's existing *DCPs*, into a consolidation Plan.

As discussed in Section 2.1 of this report, the development is prohibited within the R2 zone pursuant to *HLEP*. Accordingly, the *HDCP* provisions would not apply to this development and no further assessment is required in this regard.

2.7 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.

Pursuant to the provisions of this plan, Section 94A contribution is required to be paid based on a net cost of construction works of \$ 22,460,000 and is levied as a condition of consent.

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 comprises a number of exotic, native planted trees and locally indigenous specimens including trees numbered 23 and 75 which form part of a significant group of trees and are considered significant under Hornsby Councils' Assessment of Individually Significant Trees.

The proposed development would necessitate the removal of 73 trees from the site. The building has been designed to retain the significant trees on site along the periphery and within the central courtyard. Seventeen trees have been identified as individually significant and the submitted *"Tree Report"* prepared by *Stuart Pittendrigh* dated *November 2013*

recommends tree protection measures around the nominated tree protection zones for those 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 subject to recommended conditions regarding tree protection measures and replacement planting (condition Nos. 23, 29 and 39) in Schedule 1 of this report.

Given the above, it is considered that the proposal would not have a significant impact upon the natural environment.

3.2 Built Environment

3.2.1 Building Design

The building presents as part 2 and 3 storey elevation to Havilah Avenue, setback on an alignment consistent with the existing streetscape and with a minimum building line to the street of 10m. The two storey elevation to Hinemoa Avenue has a variable setback of 7m – 9m which is similar to the setback of the existing building on the site. The building has a U shaped configuration with a linear footprint along both the street frontages.

The building detailing is consistent with a residential development as opposed to an institutional structure. The roof form includes flat roof and pitched tiled roof. The façade materials are a combination of face brickwork, sandstone cladding and lightweight materials. The building is well articulated with variable setbacks, inclusion of full length windows, providing seating areas to individual rooms, glazed walls to sitting and dining rooms and a variation in the roof form.

The setback to the dwellings on the southern side varies between 4m and 12m. 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.

Considering the above, the design of the building and the site planning is assessed as satisfactory.

3.2.2 Traffic

A Traffic Impact Assessment Report prepared by Traffix was submitted with the application. The Report estimates that the proposed development would generate some 11 vehicle trips per hour (vtp) during peak periods or 105 vehicle trips a day. Discounting this generation for the existing site use (4vtp during peaks) gives a nett traffic generation of 7 vtp.

All entry and exit movements from the two driveways on Hinemoa Avenue and Havilah Avenue 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. Conditions of consent would ensure that the driveways include vehicular crossings as per Council's standards and sight lines for pedestrians in accordance with AS2890.1.

Condition No. 12 also requires a footpath to be provided along the eastern side of Hinemoa Avenue between the southern boundary of the site and Pennant Hills Road to enable passing by mobility scooters and pedestrians.

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 development proposes 32 car parking spaces and complies with this requirement.

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, services, community and health facilities 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 16/01/2014 and 30/01/2014 in accordance with the *HDCP 2013*. During this period, Council received two submissions. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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Two submissions objected to the development, generally on the following grounds:

- The building would be visually intrusive to the neighbouring dwelling houses;
- Noise from the facility, specially the Dementia unit would have negative impacts on the neighbourhood;
- The building would overshadow the dwelling house at No. 40 Havilah Avenue and would require the relocation of the clothes line;
- The submitted Construction Management Plan does not include sufficient information about the mitigation measures to control dust, noise, traffic impacts during construction and duration of construction works which are likely to cause adverse impacts on the neighbouring properties;
- Unacceptable traffic on local streets;
- The proposed parking is inadequate;
- Development would be in excess of the permissible height;
- The rooftop garden would overlook onto the property at No. 40 Havilah Avenue and result in adverse privacy impacts;
- The development would have adverse impacts on neighbouring properties due to lighting spill;
- The garbage collection vehicles servicing the development would cause adverse noise impacts on the neighbourhood;

- The proposal would require relocation of the aged residents which is not warranted; and
- The proposal should involve community integration.

Additionally the submissions included the following observations:

- Screen planting to a height of 3m be planted along the boundary separating the site with No. 40 Havilah Avenue to mitigate any adverse visual impact
- A Management Plan be submitted to ensure that the use of the garden by the Dementia patients be restricted;
- Hinemoa Avenue car park be used by visitors' only;
- Driveways be signposted to allow safe crossing of pedestrians;
- The boundary fence separating the facility and No. 40 Havilah Avenue is in excellent condition and should not be replaced by new fencing;

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 Screen Planting

Condition No. 3g is recommended to ensure that 3m high screen planting is provided along the southern boundary of the site fronting No. 40 Havilah Avenue.

5.1.2 Noise Impacts from the facility

The noise impact assessment report submitted with the application states that this is a low noise generating facility. As discussed earlier in this report, the application is assessed as satisfactory with regard to noise generation subject to implementation of recommended conditions of consent.

5.1.3 Overlooking opportunities from Rooftop garden

The rooftop garden is located to the north of the third level fronting Havilah Avenue. The garden area would not be visible from any neighbouring property and would be accessible from the upper floor living area only. Access is not provided to the other areas of the roof. Accordingly, the rooftop garden would not overlook on to any of the neighbouring properties.

5.1.4 Construction Management Plan

The application includes a Construction Management Plan for conducting the on-site works. Condition Nos. 25 – 28 would ensure that impacts of dust, noise, duration and asbestos removal are conducted in an appropriate manner to maintain residential amenity in the locality.

5.1.5 Garbage Collection

Garbage Collection would occur at the basement level and would not impact on the amenity of the residential properties in the locality. Notwithstanding, the submitted Noise Impact Assessment Report states that the heavy vehicles would access the site during restricted times as per *Hornsby Shire Council's Policy and Guidelines for Noise and Vibration Generation Development:2000*. Given that the garbage collection vehicles adhere to the proposed hours of access, the proposal would not have any adverse impact on the neighbouring properties.

5.1.6 Lighting

Condition 49 requires all external lighting to comply with the relevant Australian Standards. This would mitigate any adverse impact on the neighbourhood due to light spill.

5.1.7 Relocation of residents and communal integration

Relocation of residents within the existing nursing home during construction works is not a matter for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*.

The community is notified of the development by Hornsby Council and objections are considered to ensure community participation in the development application process.

5.1.8 Signposting of driveway

Council's Traffic Branch has reviewed the application and recommended conditions regarding signposting which is considered appropriate. Further signposting is not considered necessary given that a maximum of 16 to 18 cars would be accessing each car park.

5.1.9 Boundary Fencing

Boundary Fencing is required to be erected as per condition No. 48. Alternate fencing can be erected with owner's consent pursuant to the *Dividing Fences Act 1991*.

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 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 and construction of a 106 bed residential care facility, including associated car parking and landscape works.

The proposal does not comply with the of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* with regard to Clause 40 (Height). An objection pursuant to *State Environmental Planning Policy No. 1* has been submitted to support the development, which is considered well-founded.

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 2013* and is satisfactory having regard to the matters for consideration pursuant to Section 79C of the *Environmental Planning and Assessment Act 1979*.

Council received two 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.

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.

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:

Architectural Plans prepared by Group GSA Pty Ltd

Plan No.	Plan Title	Rev	Dated
DA0001	Title Sheet/Location Plan	C	18/12/2013
DA0002	Survey Plan	C	18/12/2013
DA0003	Site Analysis Plans	C	18/12/2013
DA1001	Demolition Plan	C	18/12/2013
DA2001	Parking Level Plan	C	18/12/2013
DA2002	Lower Ground Floor Plan	C	18/12/2013
DA2003	Ground Floor Plan	C	18/12/2013
DA2004	Level 1 Plan	C	18/12/2013
DA2005	Roof Plan	C	18/12/2013
DA3001	Elevations – West and East	D	26/02/2014
DA3002	Elevations –North and South	C	18/12/2013

DA3003	Sections 1 and 2	C	18/12/2013
DA3004	Sections 3,4 and 5	A	26/02/2014
DA3010	Perspective – Hinemoa Avenue	C	18/12/2013
DA3011	Perspective – Havilah Avenue	C	18/12/2013
DA7001	Landscape Plan Illustrated	B	18/12/2013
DA7102	Landscape Plan Hinemoa Avenue	B	18/12/2013
DA7103	Landscape Plan Havilah Avenue	B	18/12/2013
DA7104	Landscape Plan Roof Garden	B	18/12/2013
DA7201	Landscape Sections	B	18/12/2013
DA7101	Landscape Details	B	18/12/2013
DA7401	Landscape Plant Schedule-	B	18/12/2013

Stormwater Plans prepared by Jones Nicholson Consulting Engineers

Plan No.	Plan Title	Rev	Dated
C01	Civil Design Notes Sheet	1	19/12/2013
C02	Civil Design Stormwater Drainage Lower Ground	1	19/12/2013
C03	Civil Design Stormwater Drainage Ground and Lower Ground	1	19/12/2013
C04	Civil Design Stormwater Drainage Basement Level	1	19/12/2013
C05	Civil Design Stormwater Drainage Details	1	19/12/2013
ESM1	Erosion Sediment Control Plan Ground Level	1	19/12/2013
ESM2	Erosion Sediment Control Plan Lower Ground and Basement	1	19/12/2013
ESM3	Erosion Sediment Control Details	1	19/12/2013
BE1	Bulk Earthworks Plan	1	19/12/2013

BE2	Bulk Earthworks Sections	1	19/12/2013
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Supporting Documents

Document Title	Prepared by	Dated
Survey Plan 4740-DET Sheet1 - 10	Usher and Company	29/08/2013
SEPP LEP Height Diagram Elevations– DA0006-Issue D	Group GSA Pty Ltd	26/02/2014
SEPP LEP Diagram Plan – DA0007-Issue D	Group GSA Pty Ltd	26/02/2014
GFA Calculations and accommodation Diagrams DA0008-C	Group GSA Pty Ltd	18/12/2013
Comparison Diagram Street Frontages DA0011 – Issue A	Group GSA Pty Ltd	11/04/2014
Shadow Diagrams and Elevation Shadow Diagrams – DA0021-DA0028 – Issue A	Group GSA Pty Ltd	11/04/2014
Materials Board DA8300-Issue C	Group GSA Pty Ltd	18/12/2013
Statement of Environmental Effects	Smyth Planning	20/12/2013
SEPP 1 Objection	Smyth Planning	April 2014
Landscape Design Statement	Group GSA Pty Ltd	18/12/2013
Tree Report	Stuart Pittendrigh	March 2014
Traffic Impact Report – 13.381r01	Traffix	20/12/2013
Noise Impact Assessment	WSP Acoustics	29/11/2013
Stormwater Management Report Rev A	Mott MacDonald	8 May 2013
Access Report – Issue A	Accessible Building Solutions	25/11/2013
BCA Capability Report C13118	Bretnall Certification	16/12/2013
Allity Services Statement and Plan	Allity	Dec 2013

of Management		
Waste Management Plan	Midson Group	18/12/2013
Electrical Services Design Statement	JHA	16/12/2013
Mechanical Services Design Statement	JHA	16/12/2013
Architectural Design Statement	Group GSA Pty Ltd	18/12/2013
Landscape Design Statement	Group GSA Pty Ltd	18/12/2013
Stormwater Statement	EWFW`	13/12/2013
Contamination Report E27081Krpt	EIS	18/12/2013
Construction Management Plan	Midson Group	18/12/2013
Site Tr		

2. Removal of Existing Trees

This development consent only permits the removal of trees numbered 1 - 20, 22, 27 - 34, 41 - 49, 52 - 74, 76 - 87 as identified on the *Site Tree Location Plan TP01* in the "Tree Report" prepared by *Stuart Pittendrigh* dated *March 2014*. The removal of any other trees requires separate approval in accordance with the Tree & Vegetation Chapter 1B.6 Hornsby Development Control Plan (HDCP).

3. Amendment of Plans

The approved Landscape plans DA7001, DA7102, DA7103, DA7104 - Issue B prepared by *Group GSA* dated *18/12/2013* are to be amended as follows:

- a) The landscape retaining wall on the eastern property boundary fronting Havilah Avenue is to be reduced to have a maximum height of 800mm above the existing ground level at that point;
- b) All proposed landscape elements within the Havilah Avenue street verge are to be replaced with turf only;
- c) A 2m wide footpath is to provided within the Hinemoa Avenue street verge fronting the site and turf proposed on both sides of this footpath;
- d) The six proposed *Eucalyptus saligna* (Sydney Blue Gum) street trees along Havilah Avenue must be substituted with three (3) *Syncarpia glomulifera* (Turpentine) and three *Angophora floribunda* (Rough barked Apple) to be installed at minimum 75 litre pot size; and

- e) The five proposed *Magnolia Ashei* along the southern boundary are to be substituted by five *Waterhousia floribunda* (Weeping Lilly Pilly), to be installed at a minimum 100 litre pot size;
- f) The proposed *Malus spp 'Royal Raindrops'* (Ornamental Apple trees) within the Dementia Garden are to be replaced by a locally indigenous species such as *Tristanopsis laurina* (Water Gum), *Ceratopetalum gummiferum* (N.S.W Christmas Bush) or *Acmena Smithii* (Lilly Pilly) that can reach a mature height greater than 5m. The plants are to be installed at a minimum 25 litre pot size; and
- g) Additional screen planting, capable of reaching a mature height of 3m must be planted along the boundary separating the site and the property at No. 40 Havilah Avenue.

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

4. 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.

5. 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.

6. Section 94A Development Contributions

- a) In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the *Hornsby Shire Council Section 94A Development Contributions Plan 2012-2021*, \$224,600 shall be paid to Council to cater for the increased demand for community infrastructure resulting from the development, based on development costs of \$22,460,000.
- b) If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Hornsby Shire Council Section 94 Development Contributions Plan and the amount payable will be calculated at the time of payment in the following manner:

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

$$CPI_{DC}$$

Where:

- \$C_{PY}** is the amount of the contribution at the date of Payment.
- \$C_{DC}** is the amount of the contribution as set out in this Development Consent.
- CPI_{PY}** is the latest release of the Consumer Price Index (Sydney – All Groups) at the date of Payment as published by the ABS.
- CPI_{DC}** is the Consumer Price Index (Sydney – All Groups) for the financial quarter at the date of this Development Consent.

- (c) **The monetary contributions shall be paid to Council:**
- (i) prior to the issue of the Subdivision Certificate where the development is for subdivision; or
 - (ii) prior to the issue of the first Construction Certificate where the development is for building work; or
 - (iii) prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
 - (iv) prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.

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

Council's S94A Development Contributions Plan may be viewed at www.hornsby.nsw.gov.au or a copy may be inspected at Council's Administration Centre during normal business hours.

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

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

8. 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.

9. 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.

10. Dilapidation Report

A 'Dilapidation Report' is to be prepared by a 'chartered structural engineer' detailing the structural condition of the existing dwelling houses on No. 19 Hinemoa Avenue and No. 40 Havilah Avenue Normanhurst. A copy of this report must be submitted to Hornsby Shire Council.

11. 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.

12. Footpath

A 2.0m wide 125 mm thick reinforced concrete footpath must be designed and constructed along the eastern side of Hinemoa Avenue between the southern boundary of the site and the existing pavements in Pennant Hills Road in accordance Council's *Civil Works Design and Construction Specification 2005* and the following requirements:

- a) A detailed plan of the work being submitted with the Construction Certificate, and all existing foot paving being removed;
- b) Pouring of the concrete footpath to the extent mentioned above;
- c) The land adjoining the footpath to be fully turfed;and
- d) Any public utility adjustments to be carried out at the cost of the applicant and to the requirements of the relevant public authority.

Note: Council is the only Roads Authority who can issue a Construction Certificate for works within its roadway.

13. 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.

14. Noise

The design of the development must comply with the assessment criteria in Section 4 of the *Noise Impact Assessment Report* prepared by WSP dated 29/11/2013. All details must be submitted with the Construction Certificate plans.

15. 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) Stormwater runoff must be treated to achieve performance targets as set out in Table 1C.1.2 (b) *Urban Stormwater Quality Targets* in Hornsby Council's Development Control Plan 2013, prior to disposal from the site. Details of the stormwater treatment system is to be prepared by an Engineer and submitted with the Construction Certificate application; and
- b) Stormwater from the site must be connected to the water quality treatment facility and on-site detention system, prior to disposal to the existing Council piped drainage system in Havilah Avenue.

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

Note: All works must be completed prior to the issue of the Occupation Certificate.

16. 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) Have a capacity of not less than 165 cubic metres, and a maximum discharge (when full) of 132 litres per second.
- 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 piped drainage system.
- d) Not be constructed in a location that would impact upon the visual or recreational amenity of residents.

Note: All works must be completed prior to the issue of the Occupation Certificate.

17. 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 designed and 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) All footpath verge areas must be restored by turfing;
- c) Approval must be obtained from all relevant utility providers that all necessary conduits be provided and protected under the crossings.
- d) Crossing pavements are to be flush with finished ground levels.
- e) No Kerbs are to be provided on the footpath verge area;
- f) The crossing proposed between the Havilah Avenue kerb line and the proposed basement must not conflict with existing street drainage infrastructure. The crossing must be located 1m to the south of the currently proposed location on approved plans;

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.

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.

Note: All works must be completed prior to the issue of the Occupation Certificate.

18. 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 of crossings at the street alignments must be obtained from Council;
- b) The driveways must be rigid pavements;

- c) The driveway grades must not exceed 25 percent and transitions for changes in grade must not exceed 8 percent per plan metre;
- d) Driveway pavements must be designed by a suitably qualified chartered engineer;
- e) The gradient of the driveway in Hinemoa Avenue must be 1:20 for the first 6 metres within the site.
- f) Retaining walls required to support the carriageway and the compaction of all fill batters must be in accordance with the requirements of a chartered structural engineer;
- g) Safety rails must be provided where there is a level difference more than 0.3 metres and a 1:4 batter can not be achieved;

Note: All works must be completed prior to the issue of the Occupation Certificate.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS
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19. 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.

20. 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.

21. 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*.

22. 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.

23. Tree Protection Barriers

- a) Tree protection fencing must be erected around trees numbered 21, 23, 24, 25, 26, 35, 36, 37, 38, 39, 40, 50, 51, 75, 88, 89 and 90 to be retained at the specified Tree Protection Zones (TPZ) outlined within the submitted "*Tree Report*" prepared by *Stuart Pittendrigh* dated *March 2014* and in accordance with Section 4 in *AS4970-2009 'Protection of Trees on Development Sites*.
- b) The tree fencing must be constructed of 1.8 metre 'cyclone chainmesh fence'.
- c) To avoid injury or damage, trees numbered 21, 23, 50, 51 and 75 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).
- d) Prior to works commencing and throughout construction, the area of TPZ of trees 21, 23 and 75 is to be protected by the use of wood-chip mulch to prevent soil compaction around tree roots. The mulch is to be maintained at a depth of 150mm using material that complies with AS 4454 on top of a geotextile landscape fabric and placed over the root zone of the trees to be protected.

Note: A certificate from a qualified Arborist (AQF 5) is to be submitted to the Principal Certifying Authority stating that all tree protection measures are in accordance with the above and consistent with the intentions of the Australian Standard 'Protection of Trees on Development Sites (AS 4970-2009) prior to commencement of works.

24. 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.

REQUIREMENTS DURING CONSTRUCTION

25. 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.

26. 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.

27. 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.

28. Street Sweeping

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

29. Works Near Trees

- a) All required tree protection measures are to be maintained in good condition for the duration of the construction period. Existing soil grades within the Tree Root Zone, of trees to be retained must be maintained.
- b) All approved works within the Tree Root Zone of trees 21, 23 and 75 must be conducted in accordance with the following requirements:
 - Works must be carried out under the supervision of the Project Arborist and not reduce the useful life expectancy;
 - A certificate must be submitted to the principal certifying authority detailing the method(s) used to preserve the tree(s);
 - Any installation of services must be conducted by hand excavation only;
 - No tree root greater than 30mm diameter located within the nominated Tree Root Zones of any tree to be retained on or off-site shall be severed or injured in the process of any works during the entirety of the consent;
 - Tree roots less than 30mm diameter that are required to be severed for the purposes of this consent must be cut by hand in an appropriate manner, by a qualified and experienced Arborist or Horticulturalist with minimum qualifications of Horticultural Certificate or Tree Surgery Certificate (AQF 3); and
 - All pruning must be undertaken as specified in the Australian Standard 'Pruning of Amenity Trees' (AS 4373-2007).

Note 1: Except as provided above, the applicant is to ensure that no excavation, including sub-surface trenching for stormwater or other services, filling or stockpiling of building materials, parking of vehicles or plant, the use of machinery other than hand held, disposal of cement slurry, waste water or other contaminants is to occur within the Tree Root Zone of any tree to be retained.

Note 2: A copy of the conditions of consent and the Tree Protection Plan must remain onsite at all times during demolition and construction works and be readily available to any Council officer or the Principal Certifying Authority.

30. 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.

31. 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.

32. 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.

33. 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.

34. Survey Report – Finished Floor Level

A report 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 levels are in accordance with the approved plans.

35. 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.

36. 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.

37. Creation of Easements

The following matters must be nominated on the plan of subdivision under s88B and 88E 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.

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

38. 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.

39. Maintain Canopy Cover

All planting must be completed in accordance with the approved Landscape Plans DA7001, DA7102, DA7103, DA7104, DA7201, DA7101 and DA7401 (Issue B) prepared by Group GSA dated 18/12/2013 as amended by Condition 3 of this development consent.

Note: A certificate from suitably qualified and experienced Horticulturalist is to be submitted to the Principal Certifying Authority stating that all plant stock meet the specifications outlined in 'Specifying Trees' (Ross Clark, NATSPEC Books) and that the planting methods were current professional (best practice) industry standards at the time of planting.

40. Landscape Specifications

To ensure that sustainable landscape is achieved, the on slab planter boxes must include the following:

- Waterproofing;
- Subsoil drainage (proprietary drainage cell, 50mm sand and filter fabric);
- Automatic irrigation;
- Minimum 500mm planting soil for shrubs;

- Minimum 1000mm planting soil for trees and palms; and
- 75mm mulch.

Note: Applicants are advised to pre-order plant material required in pot sizes 45 litre or larger to ensure Nurseries have stock available at the time of install.

41. Completion of Landscaping

- a) The Project Arborist must assess the condition of trees and their growing environment and make recommendations for, and if necessary carry out remedial actions.
- b) 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, the conditions of development consent and AS 4970-2009.
- c) A certificate must be provided by a practicing landscape architect, horticulturalist or person with similar qualifications and experience certifying that all required landscaping works have been satisfactorily completed in accordance with the approved landscape plans.

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

42. 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.

43. 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)*'.

44. 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*.

45. 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.

46. Fire Sprinkler System

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

47. Beauty Salon Fit Out

The fit of the premises and all procedures must be in accordance with the Public Health Act 2010 and the Section 124 of the *Local Government Act 1993* and *Reg 85 of the Local Government (General) Regulation 2005*.

48. Boundary Fencing

Fencing must be erected along the northern and southern property boundaries behind the front building alignment to a height of 1.8 metres.

Note: Alternative fencing may be erected subject to the written consent of the adjoining property owner(s).

49. External Lighting

All external lighting must be designed and installed in accordance with *Australian Standard AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting*. Certification of compliance with the Standard must be obtained from a suitably qualified person.

OPERATIONAL CONDITIONS

50. Heavy Vehicle Access

The hours of heavy vehicle access to the site such as a garbage collection vehicle would be restricted to the following:

Monday to Saturday – 7am – 6pm

51. 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.

52. 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.

53. 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.

54. Landscape Establishment

- a) The trees must be maintained until they reach a height of 3m.
- b) Plantings that fail to survive or do not exhibit normal health and vigour growth characteristics for their species prior to reaching a height greater than 3m, must be replaced.
- c) The landscape works must be maintained into the future to ensure the establishment and successful growth of plant material to meet the intent of the landscape design. This must include but not be limited to watering, weeding, replacement of failed plant material and promoting the growth of plants through standard industry practices.

- 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). (HDCP 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.