

**JOINT REGIONAL PLANNING PANEL  
(Southern Region)**

<b>JRPP No</b>	<b>2017STH005</b>
<b>DA Number</b>	<b>DA 100-2012/B</b>
<b>Local Government Area</b>	<b>Queanbeyan-Palerang Regional Council</b>
<b>Proposed Development</b>	<b>Modification of Development Consent 100-2012/A</b>
<b>Street Address</b>	<b>Lot A DP 33538, Lot 1 DP 774149 &amp; Lot 2 DP 739287  No. 111 Campbell Street, 18 George Street and 50 Canberra Avenue, Queanbeyan NSW 2620</b>
<b>Applicant/Owner</b>	<b>Hodges Shorten Architects/ Warrigal Care</b>
<b>Number of Submissions</b>	<b>Two Public Submissions and Three Government Agency Submissions</b>
<b>Recommendation</b>	<b>Approval with Conditions</b>
<b>Report by</b>	<b>Mary Kunang, Queanbeyan-Palerang Regional Council</b>

## **Assessment Report and Recommendation**

### **Executive Summary**

On 11 January 2017 Council received an application to modify development consent 100-2012/A for demolition of an existing aged care facility, five independent living units and three detached garages, construction of a new 125 bed aged care facility on Lot 1 DP 774149 18 George Street, Lot 2 DP 739287 50 Canberra Avenue and Lot A DP 33538 111 Campbell Street, Queanbeyan. The proposed modifications are summarised below:

- 1) Relocation or removal of the majority of the roof level plantrooms/structures, with one central plant area to remain.
- 2) Replacement of the flat concrete roof with a low pitched metal roof, including removal of parapets and replacement with eaves.
- 3) A general reduction in the perceived height of the building following removal of the parapet and plant rooms.
- 4) Amendment to the ground and ceiling level of the first floor of the building, being a 200mm increase in the floor level and 100mm decrease in the ceiling level.
- 5) Reduction of 329m<sup>2</sup> in the excavated part of the basement resulting from a rationalisation of functions, including reconfiguration of carparking and fire stairs.
- 6) Internal changes at the ground and first floor levels relating to the reconfiguration of functions and rooms and minor change to the building footprint at such levels. This will result in an increase in the number of one bed rooms at the first floor (up from 66 to 73) and a reduction in the number of one bed rooms at the ground floor (down from 59 to 52), with the total number of bedrooms being unchanged at 125.
- 7) Inclusion and relocation of balconies off the resident sitting areas on the northern and southern facades of the building.
- 8) Alteration of sunshade elements on the facades of the building to smaller bay window elements.
- 9) Rearrangement of façade materials, including introduction of weatherboard to replace some flat panel elements.

The subject site is zoned R2 – Low Density Residential under the Queanbeyan Local Environmental Plan 2012. The proposed modified development is permissible with consent within this zone and does not result in a change to the approved land use definition.

As the proposed modification falls within the “Other modifications” group which is dealt with under Section 96(2) of the Environmental Planning and Assessment Act 1979, and the Joint Regional Planning Panel is the consent authority for the proposal.

The proposed modified development is Integrated Development pursuant to Section 58 of the Heritage Act 1977. General Terms of Approval have been obtained from the Office of Environment and Heritage. The NSW Roads and Maritime Services, pursuant to State Environmental Planning Policy (Infrastructure) 2007 and NSW Police, have raised no objection to the proposal.

The subject modification application was advertised in the Queanbeyan Age on 24 January 2017 and was also notified to adjoining owners and two submissions were received. The issues raised in the submissions form part of the assessment of this application.

An assessment under Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval subject to a number of conditions be modified.

## **Background**

The original development application 100-2012 was lodged with Council on 16 April 2012 for the demolition of an existing residential care facility known as Kawaree Lodge, as well as the demolition of five independent living units and three detached garages in order to allow for the construction of a new 125 bed residential care facility on the subject site that will include: two levels of accommodation with numerous communal dining, lounge and activity areas; staff facilities; and a basement level for utility rooms and car parking. In addition, some minor landscaping and paving works were proposed to be carried out adjacent to a state listed heritage item which is located on the site and is used for the community activities of residents of the existing facilities. As the capital investment value (CIV) of the original development application was \$27.5m the Joint Regional Planning Panel was the consent authority in accordance with the provisions of State Environmental Planning Policy (State and Regional Development) 2011.

At a meeting held on 2 November 2012 the Joint Regional Planning Panel (Southern Region) conditionally approved the original DA 100-2012 mentioned above. The significant issues from the original application related to heritage impacts maximum building height and vehicle access off a classified road (Canberra Avenue). Based on the staff report, the original development application was approved with building height varying from 7.4m up to 10.6m under the SEPP (Housing for Seniors and People with a Disability) 2004. However, the majority of the building is 8.5m high. The portions of the building above 8.5m relate entirely to areas that have been raised to provide vertical air flow and for the storage of plant. These areas were well setback from the external walls of the building. Issues related to vehicular access have been resolved by restricting access to the eastern Canberra Avenue driveway to just garbage collection vehicles, and removing this as a pedestrian entry will improve the safety and operation of the nearby intersection.

For the original development application two submissions were received as a result of the public notification process. The issues raised in these submissions related to the management of sewerage, privacy, traffic generation and property values. These issues were either satisfactorily addressed or considered to be irrelevant to the original assessment.

On 9 September 2013, an application 100-2012/A to modify the development consent was lodged with Council which falls within the “minimal environmental impact” group (Section 96(1A)). Therefore Council was the consent authority for the modification application 100-2012/A pursuant to Clause 21(2)(j) of the State Environmental Planning Policy (State and Regional Development) 2011. That modification involved the following:

1. Reduction in the size of the basement and reconfiguration of basement car parking area and rooms;
2. Reconfiguration of the ground and first floors;
3. Slight alterations to facades to reflect internal changes; and
4. Changes to landscape to reflect the basement changes.

Council at its meeting on 13 November 2013 approved the modification application 100-2012/A subject to a number conditions being modified. In accordance with staff report, the proposed modifications did not impact on the significant issues mentioned in the original application.

The original application was assessed and approved under the Queanbeyan Local Environmental Plan 1998 (QLEP 1998) and applicable Development Control Plan (DCP). Under the QLEP 1998 the subject site was zoned 2(a) Residential A and 2(c) Residential C. The approved development was located entirely within the portion of the site zoned 2(C). Not long after the original development consent was granted in November 2012 the QLEP 1998 was replaced by the Queanbeyan Local Environmental Plan 2012 (QLEP 2012). There have also been changes to the applicable DCP.

The modification application 100-2012/A mentioned above was assessed and approved under the current QLEP 2012 and DCP 2012. Under the QLEP 2012 the whole site is zoned R2 – Low Density Residential, however, the development remains permissible in the R2 zone and the modified development (100-2012/A) did not result in a change to the approved land use definition. Based on the staff report, the modified development did not result in any changes to the number of approved car parking spaces, aged care rooms, height, setbacks, gross floor area, finished floor levels, or overall appearance of the building. The modifications proposed resulted in a development which was substantially the same as the development originally approved. The modification application 100-2012/A was notified to adjoining owners and occupiers and no submissions were received.

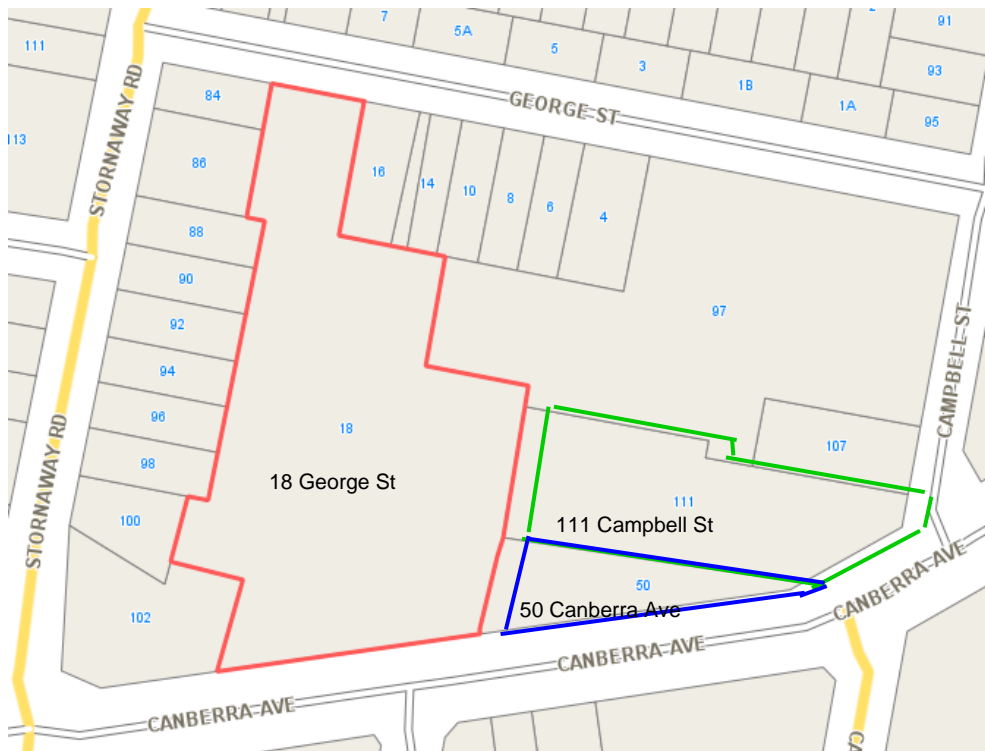
Modification application 100-2012/B was lodged with Council on 11 January 2017. The NSW Heritage Branch, NSW Roads and Maritime Services and the NSW Police were invited to comment on the proposed modified development. None of these external agencies/authorities have raised any objections to the subject modification application. The subject modification application was advertised in the Queanbeyan Age on 24 January 2017 and was also notified to adjoining owners and two submissions were received. One submission was from the submitter who made a written submission in relation to the original development application. The issues raised in this submission related to the privacy, traffic generation and property values. The other submission was from the owner/occupier of an existing independent living unit. The issues raised related to privacy, noise, safety and amenity, access and existing retaining wall along Canberra Avenue. The relevant issues raised in the submissions have been addressed in “Engagement” section of this Report.

The remainder of this report provides the detailed assessment of the modification application.

### **Site and Surrounds**

The subject site has been used as a residential aged care facility since the early 1990s and is known as the Kawaree Retirement Village. Current services provided include independent living units and a low care nursing home, known as Kawaree Lodge. Communal activities are offered within the existing dwelling-house on the site (Kawaree), which is a state listed heritage item. No changes to the appearance or structure of the “Kawaree” dwelling were proposed for the original application and the subject modification does not introduce any changes.

The subject site is irregular in shape, slopes from west to east and consists of three allotments with a primary frontage to Canberra Avenue (see figures 1 and 2 below). Lot 2 DP 739287, 50 Canberra Avenue is 1668m<sup>2</sup>, Lot A DP 33538, 111 Campbell Street is 4464m<sup>2</sup> and Lot 1 DP 774149, 18 George Street is 12,470m<sup>2</sup>. The total site area is therefore 18,602.21m<sup>2</sup>. The three lots will be consolidated as part of the approved development.



**Figure 1 – Three allotments comprising the subject site**



**Figure 2 – Subject site outlined in red**

Vehicle access to the site is obtained via two driveways off Canberra Avenue and one driveway off George Street (see figures 3, 4 and 5 below). The subject modification does not seek to alter these access points. Pedestrian access is obtained via the three vehicles entries and through a gated pathway link to the bowling club car park directly adjoining the site to the north.



*Figure 3 – Existing western Canberra Avenue entry*



*Figure 4 – Existing eastern Canberra Avenue entry*



### ***Figure 5 – Existing George Street entry***

The site is situated on the edge of an established residential area within walking distance of the Queanbeyan central business district (CBD) and open space recreation areas. It is directly bounded to the south by Canberra Avenue, a four-lane state classified road, to the north by a bowling club and low density residential development, and more low density residential development to the east and west. The site is also located within a Heritage Conservation Area and the Queanbeyan Showground, a heritage listed item of local significance, is located diagonally opposite the site to the south-east.

Canberra Avenue is a major entrance point to Queanbeyan and the subject site is situated prominently where the transition between the established residential area and the City's commercial centre begins.

### **Locality**

The locality is mixed in character. While single storey dwelling-houses predominate to the north and west of the site (within the heritage conservation area), within the site itself are several two storey independent living units and to the south and east there is medium density two-storey residential development, a motel and several recreational facilities – including a bowling club, tennis courts, the Queanbeyan Showground and other park lands (see figure 6 below). Also within 200m to the east of the site is a recently constructed four storey state government office building and the western boundary of the Queanbeyan CBD.





**Figure 6 - Locality**

The following reports have accompanied the proposed modified development and were used throughout the planning assessment:

- Plans prepared by Hodges Shorten Architects dated 1 December 2016 and 10 April 2017.
- Statement of Environmental Effects and supporting documents prepared by TCG Planning and Hodges Shorten Architects dated 16 December 2016.
- Heritage Impact Statement prepared by NBRS Architecture dated 16 December 2016.
- Written advice from the Department of Planning and Environment dated 16 May 2013 states that neither SEPP 1 – Development Standards or Clause 4.6 – Exceptions to development standards of the QLEP 2012 are applicable to a Section 96(2).
- Written advice prepared by Cardno's Sydney Traffic Team dated 14 March 2017 regarding traffic matters raised by RMS.
- Applicant's responses and amended plan showing the issues raised by the RMS have been addressed.

## **Planning Requirements**

Under Section 96 applications to modify the development consent are grouped according to whether they involve:

- i) Minor error, misdescription or miscalculation; or
- ii) Minimal environment impact; or
- iii) Other modifications.

This proposed modification falls within the “Other modifications” group which is dealt with under Section 96(2). The following provides an assessment of the proposal under the relevant provisions of Section 96.

### **Section 96(2) Other Modifications**

This subclause specifies requirements that must be satisfied and/or carried out. The first is whether the proposal will result in the development being substantially the same development originally consented to. In this instance, the modifications proposed will result in a development which is substantially the same as the development originally approved. There are no changes proposed to the number of car parking spaces, number of aged care rooms, landscaping, access, gross floor area or overall appearance of the building. The proposal involves minor changes to the overall building height, setbacks and finished floor level of upper storey.

The original development application was approved with the height of the proposed building varying from 7.4m up to 10.6m. A minor change to the overall building height has resulted from the replacement of the approved flat concrete roof with a low pitched metal roof and the replacement of parapets with eaves. This results in a general reduction in the perceived height of the building following the removal of the parapets and plant room. The proposed modified development results in the building will having a maximum height of 9.75m to ridge. The inclusion of a pitched roof results in the proposed modified development being more sympathetic to the existing characteristics of the locality and building forms in the Heritage Conservation Area. Also minor changes to external building appearance (with low pitched roof) contribute positively to the existing streetscape. Minor changes to the approved setbacks resulted from the proposed fire stairs which will have no impact on the adjoining neighbours in terms of privacy.

These minor changes result in better design outcomes that complement the desirable aspects of the locality, the heritage conservation area, nearby heritage listed items and the existing heritage item on the site. There will be minimal impacts on adjoining land use activities.

The second and third requirements are that the modification application be referred to relevant public authority or approval body and be notified in accordance with a DCP, in this instance Clause 1.8.5 – Notification Requirements for Modifications of the Queanbeyan Development Control Plan 2012. The application was referred to the NSW Heritage Council, RMS and NSW Police for comment. The application was also advertised in the local newspaper and notified to adjoining property owners and occupiers and two submissions were received. Refer to “Engagement” section of this Report for more details.

The matters that are of relevance under Section 79C(1) of the Environmental Planning and Assessment Act (EPAA) 1979 have been taken into consideration and are summarised in the Section 79C(1) Table – Matters for Consideration below.

### **Statutory Assessment**

The proposed modified development has been assessed in accordance with the requirements of the following planning instruments:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- Queanbeyan Local Environmental Plan 2012
- Queanbeyan Development Control Plan 2012

### ***State Environmental Planning Policies***

The proposed modified development has been assessed in accordance with the requirements of the relevant State Environmental Planning Policies (SEPPs) including any draft SEPPs and a summary is provided as follows:

#### ***a) State Environmental Planning Policy (State and Regional Development) 2011***

This Policy identifies development for which Joint Regional Planning Panels are to exercise specified consent authority functions.

The capital investment value (CIV) of the original development application was \$27.5m, therefore, it was required to be determined by the Joint Regional Planning Panel (JRPP) – Southern Region pursuant to Clause 20 of Part 4 – Regional Development of State Environmental Planning Policy (State and Regional Development) 2011 and Schedule 4A of the *Environmental Planning and Assessment Act 1979*. At a meeting held on 2 November 2012 the JRPP conditionally approved development application 100-2012.

Pursuant to clause 21(1)(b) of this Policy, the JRPP is the consent authority for the subject modification application as it is considered to fall within “Other Modifications” group which is dealt with under Section 96(2) of the Environmental Planning and Assessment Act 1979.

**b) State Environmental Planning Policy No 55 – Remediation of Land**

The objectives of SEPP 55 are:

- To provide for a state wide planning approach to the remediation of contaminated land.
- To promote the remediation of contamination land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Pursuant to clause 7 a consent authority must not consent to the carrying out of any development on land unless:

- a. It has considered whether the land is contaminated, and*
- b. If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- c. If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

A Phase 1 Environmental Site Assessment (ESA) was submitted and four areas of environmental concern (AEC) were identified. From the available evidence and submitted Phase 1 ESA the possibility that the subject land is contaminated was considered to be very low. However, condition 7A was imposed on the consent requiring a Phase 2 Environmental Site Assessment (ESA) of the potential impacts of cooking oil/grease from the cooking oil storage area and existing triple interceptor trap and soil and groundwater to be carried out prior to the issue of the Construction Certificate (Building). To date, there is no Phase 2 ESA has been submitted to Council and no Construction Certificate (Building) has been issued for this DA.

The relevant provisions of this Policy were satisfied under the original development application. This assessment is not impacted by the proposed modification and changes to existing conditions of consent are recommended.

**c) State Environmental Planning Policy (Infrastructure) 2007**

The Policy provides for consultation with relevant public authorities about certain development during the assessment process.

The relevant provisions of this Policy were satisfied under the original development application and first modification application 100-2012/A. The proposed modified development remains satisfactory.

The original development application was referred to NSW Roads and Maritime Services (RMS) as a traffic generating development pursuant to Clause 104. The application was also referred to the Regional Development Committee (RDC). Issues raised by the Regional Development Committee were satisfied. The RMS granted their concurrence subject to the imposition of recommended conditions.

The previous modification application 100-2012/A was also referred to the RMS for comment. They have advised that they do not object to the development provided that Council remains satisfied that vehicle manoeuvrability in the basement and sightlines to and from the two driveways on Canberra Avenue remain satisfactory. Council's Development Engineer has advised that this is the case and raised no objection to the proposal.

The RMS was invited to comment on the subject modification application. After a few consultations with the applicant and amendment to the plans, the RMS has raised no objection to the proposed modification subject to the following additional comment that should be included in the conditions of any amended development consent issued;

*"The use of the eastern driveway by waste collection vehicles must ensure compliance with the following:*

- *Vehicles must enter and exit in a forward direction;*
- *Vehicles must not adversely impact upon the safety and efficiency of the adjoining classified road (i.e. Canberra Avenue); and*
- *Vehicles must undertake the ongoing collection of garbage as detailed in the email from Peter Shorten dated 23 March 2017 and letter from Cardno dated 14 March 2017 (copy attached)."*

Council's Development Engineer has raised no objection to the proposal – Please see the discussion in the internal referrals section of this Report.

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

The relevant provisions of this policy were satisfied under the original development application and previously approved modification application 100-2012/A. The proposed modifications result in a development that remains satisfactory in regards to the relevant provisions of the Policy, including clauses: 2, 4, 5, 8, 10, 11, 18, 24, 26, 28, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40 and 48. Specific clauses that warrant further discussion are listed below;

**Clause - 32 Design of residential development**

A consent authority must not consent to a development application made pursuant to this Chapter unless it is satisfied that the proposed development demonstrates that adequate regard has been given to the design principles set out in Division 2 below.

## ***Division 2 Design Principles***

### ***Clause 33 - Neighbourhood amenity and streetscape***

This clause was considered under the original application. The original development generally satisfies the following criteria:

- The buildings contribute to the current urban character of locality.
- The building scale, bulk and design complements the surrounding Conservation Area and heritage items in the vicinity.
- It maintains reasonable neighbourhood amenity and residential character. There will be no overshadowing of adjoining residential properties from the proposed development and varying roof pitches, façade treatments and landscaping alleviate the visual bulk of the building.
- It provides for appropriate setbacks, building form, suitable heights to the street frontage, impact of buildings on neighbours, and retention of existing trees.

The originally approved development has a flat concrete roof and parapets. The proposed modifications involve the replacement of the approved flat concrete roof with a low pitched metal roof and the removal of parapets which will be replaced with eaves. This results in a general reduction in the perceived height of the building following the removal of the parapets and plant room. The inclusion of a pitched roof results in the proposed modified development that is more sympathetic to the existing characteristics of the locality and building forms in Heritage Conservation Area. Also minor changes to external building appearance contribute positively to the existing streetscape.

The proposed modified development resulted in minor changes to the approved front, rear and side setbacks of the basement, ground and first floor above. Minor reduction in rear setbacks of the basement, ground floor and first level are from the proposed fire stairs (from 3.8m to 2.8m). Also the reconfiguration of rooms in ground floor (Rooms C1 – C5) and first level (Rooms E14 – E18) results in reduction in rear setbacks from 5m to 4.8m. Reduction in rear setbacks will have no impact on adjoining bowling club. Minor reduction of front setbacks (facing Canberra Avenue) resulted from the proposed fire stairs (from minimum 5.5m to 5.2m). These minor changes to the front setbacks will have no adverse impact on the neighbourhood amenity and streetscape.

Council's Heritage Advisor advised that the proposed modifications are more in keeping with local character and are acceptable from a heritage perspective. The proposed modified development is considered generally satisfactory with respect to this clause.

### ***Clause 34 - Visual and acoustic privacy***

This clause has been addressed under the original application.

The assessment of the previously approved modification application 100-2012/A required that the floor to ceiling windows in aged care units numbered 46-54 on the ground floor level and 53-61 on the upper level have privacy treatments. Conditions of consent were amended accordingly.

The re-configurations proposed to both levels mean that the condition will need to be amended to refer to units C6-C9, C11, C13, C15 & C17-C18 on the ground floor and E1-E3, E5, E7, E9, E11-E13 on the upper floor.

The proposed re-configurations also resulted in seven additional units D1-D7 on the upper level being located on the southern side facing Canberra Avenue. The noise impacts on the seven additional units from Canberra Avenue are similar to all approved units fronting Canberra Avenue which have been addressed under the original application. Relevant conditions of consent imposed on the original consent to minimise the intrusion of noise to rooms fronting Canberra Avenue and from vehicles travelling to and from the basement are still applicable.

The proposed modified development also involves the erection of two new balconies off the resident sitting areas on the northern and southern facades of the building. It is considered that the proposed balconies will have minimal impacts on visual privacy of neighbours in the vicinity.

The proposed modified development is considered generally satisfactory with respect to this clause.

### ***Clause 35 - Solar access and design for climate***

The proposed internal re-configurations and replacement of flat roof with low pitched metal roof will not overshadow the neighbouring properties. Given the orientation of the site the vast majority of shadow impacts from the proposed new buildings are onto Canberra Avenue to the south of the site. Submitted shadow diagrams for 21 June show that some of the existing independent living units to the west will receive some overshadowing at 9am, but are well clear of shadow by 12 noon.

The proposed modified development is considered generally satisfactory with respect to this clause.

### ***Clause 37 - Crime prevention***

The original approved development was considered generally satisfactory with respect to the crime prevention through environmental design (CPTED) principles of the DCP. The original development application was identified by the NSW Police as a moderate crime risk. A number of conditions and advisory notes were recommended to minimise opportunities for crime within the development.

The previously approved modification application 100-2012/A was also referred to the NSW Police for comment. No additional recommendations were made and the proposal did not introduce any relevant changes in regard to these principles. There were, however, two issues relating to basement security that were raised relating to vehicle access and pedestrian access. These issues were satisfactorily addressed.

The subject modification application was also referred to the NSW Police for comment. NSW Police noted that changes to balcony locations will increase natural surveillance of common areas. Also concerns over the parking area and access to the area, raised under the original application, have been satisfactorily addressed. No additional recommendations were made and the proposal does not introduce any relevant changes in regard to these principles.

The proposed residential care facility building is designed to allow for good levels of observation of internal communal and public areas. The main entry is clearly identified, although signage will be required within the site to direct visitors as the main entry is not visible from the road. The proposed modified development is considered to have responded reasonably well to the existing layout of the existing aged care complex's buildings. Outdoor terraces and windows to communal facilities provide good levels of surveillance to the street frontage, while the main entry driveway will also be able to be viewed from communal areas.

The proposed modified development is considered generally satisfactory with respect to this clause.

### ***Clause 39 - Waste Management***

The proposed modified development remains satisfactory in regard to the waste management. The proposed development is provided with two storage areas within the basement for general and medical waste.

As previously noted a new condition of consent recommended by the RMS will be imposed (if granted) to ensure waste disposal vehicles accessing the eastern driveway are to enter and exit the site in a forward direction and vehicles must not adversely impact upon the safety and efficiency of the adjoining classified road (i.e. Canberra Avenue).



#### ***Clause 40 - Development standards - minimum sizes and building height***

This clause states in part that development consent cannot be granted under this Policy if the development is proposed in a residential zone where residential flat buildings are not permitted and the height of any proposed buildings is greater than 8m.

When the original development application was determined the development was located entirely within the portion of the site zoned 2(c) Residential C under the Queanbeyan Local Environmental Plan 1998. Residential flat buildings were permitted in 2(c) zone; therefore, the fact that the proposed building's height was greater than 8m was not an issue. The whole of the subject site is now zoned R2 – Low Density Residential under Queanbeyan Local Environmental Plan 2012. Residential flat buildings are not permitted in the R2 zone. Pursuant to Clause 96(3) of the Environmental Planning and Assessment Act 1979, since the proposed modifications include minor changes to the approved building height, the consent authority must take this matter into consideration (section 79C(1)) as being relevant to the subject modification application. This issue is discussed in further detail under Clause 48 below.

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

A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds:

- (a) *building height: if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys)*

Under the Policy the following definitions are applicable:

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

***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.

Using the above definitions, the original development application was approved with the height of the proposed building varying from 7.4m up to 10.6m. However, the majority of the building is 8.5m high which exceeds the 8m height. The portions of the building above 8.5m relate entirely to areas that have been raised to provide vertical air flow and for the storage of plant. These areas were well setback from the external walls of the building.

The proposed modified development results in the building having a maximum height of 9.75m to ridge which exceeds the 8m height mentioned above. This resulted from the replacement of the approved flat concrete roof with a low pitched metal roof and the removal of parapets which will be replaced with eaves. The applicant has submitted a variation request, stating that;

*The modified building will have a maximum overall height of 9.75m measured to the top of the ridge. An 8.5m maximum height limit applies to the site under QLEP 2012. However clause 5(3) of the Seniors Living SEPP states "If this Policy is inconsistent with any other environmental planning instrument, made before or after this Policy, this Policy prevails to the extent of the inconsistency". Clause 40 (contained in Part 4 Division 1) confirms that on sites where residential flat buildings are not permissible:*

- 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*

*Note. The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.*

- c) a building located in the rear 25% area of the site must not exceed 1 storey in height."*

*Hence, Clause 40 sets the applicable height standards for this site as Warrigal is not a social housing provider. Therefore the proposed development is restricted to a height of 8m; 2 storeys adjacent to the boundary of the site; and single storey within the rear 25% of the site. Such restrictions did not apply to the approved development (DA 100-2012), as residential flat buildings were permissible in the 2(c) 'Residential C' zone which applied to the site at that time.*

*The Department of Planning and Infrastructure in advice dated 16 May 2013 (Appendix 1), which pertained to a similar Warrigal project in the Illawarra, confirmed that "Clause 4.6 of the LEP can be used to vary development standards identified in Clause 40(4) of the Seniors SEPP.....Clause 4.6 allows development consent to be granted for developments that would contravene a development standard imposed by this or any other environmental planning instrument, provided the development standard is not expressly excluded from the operation of the clause. I note that the development standards identified in Clause 40(4) of the Seniors SEPP is not expressly excluded".*

*However, we draw Council's attention to the fact that a legal opinion obtained by Warrigal from Wilshire Webb Staunton Beattie Lawyers confirms that a modification application is not a development application and, as such, the dispensing power of both Clause 4.6 and SEPP 1 is not applicable to the modification application. This does not mean that an exceedance of a development standard cannot be supported but rather that it can be varied and that a Clause 4.6 variation or SEPP 1 objection is not required. In considering the modification the consent authority remains bound to assess the application, with due consideration to the relevant heads of consideration under section 79C of the EPA Act.*

*Therefore the provisions of clause 40 of SEPP Seniors can be varied, however a Clause 4.6 'Exceptions to Development Standards' report is not required to vary this standard, as the application is submitted under section 96(2) of the EPA Act.*

*Further, a clause 4.6 variation is also not required in relation to the LEP height standard, as this standard does not take precedence over the SEPP standard.*

*With respect to the variation in height which is sought the following is submitted for Council's consideration:*

- The main bulk of the building is generally located below the 8.5m height plane, consistent with the approved development, with only the pitched roof generally extending above this level. A low roof pitch is proposed, acknowledging the height limitations in this locality.*
- The height of the main bulk of the building is relatively unchanged with the approved building having a maximum height of 8.9m to the parapet and the modified building having a maximum height of 9.05m to the eaves.*
- The perceived maximum height of the building on the site will be reduced by this modification, following removal of the parapet and plant rooms. Further, the pitched roof will provide a reduction in the bulk and scale of the building.*
- The removal of two of the plant rooms from the rooftop will reduce the visual impact of such structures, with the pitched roof providing a more visually appealing outcome, which has greater regard to neighbourhood character.*
- The pitched roof design removes the blades which extended from the parapets and provide a more sympathetic and traditional roofline, with eaves.*
- As noted in the Heritage Assessment prepared by NBR Architecture the amended design will have negligible heritage impact on Kawaree, acceptable visual impact on the Queanbeyan Heritage Conservation Area and negligible heritage impact on the heritage items in the vicinity (Queanbeyan Showground).*

The proposed modified development is inconsistent with sub-clause 48(a) above in that the building height is over 8 metres. This means that the consent authority could use the height of the building as a reason for refusing the development application. However, it is considered that the height of the building will not pose a detrimental impact on any adjoining or surrounding development. Additionally the original development application was approved with the height of the proposed building varying from 7.4m up to 10.6m. The proposed modified development results in the building having a maximum height of 9.75m to ridge which is less than the already approved building height. Based on the submitted elevations, the removal of parapets and plant rooms generally reduces the perceived height of the building when viewed from the street. The replacement of the flat concrete roof with a low pitched roof and replacement of parapets with eaves results in a proposed development that is compatible with the existing buildings on site and in the Heritage Conservation Area and reduces the visual impact of the buildings in low density zone. There will be no overshadowing impact as a result of the modifications and proposed low pitched roof.

The proposed modified development was referred to Council's Heritage Advisor and Heritage Advisory Committee for comment. The Heritage Advisor advised that the modifications are relatively minor and unlikely to have any adverse impact on the listed item Kawaree, or on the Queanbeyan Heritage Conservation Area or on the Queanbeyan Showground. The Heritage Advisor also advised that the removal of service equipment from the roof will enable a pitched roof that is more in keeping with local character. The Heritage Advisor has raised no objection to the proposal.

The Heritage Advisory Committee has also raised no objection to the proposal subject to the inclusion of a condition on any development consent requiring the aluminium louvre screen to the lift overrun and roofing planting area being coloured to match the colour of the roof.

The proposed modified development was referred to the NSW Heritage Council for comment. The NSW Heritage Council re-issued their General Terms of Approval for the proposed modified development on 24 May 2017. These include specific requirements relating to the management of any archaeology relics that may be uncovered during excavation works and landscaping within the curtilage of the state heritage listed item. A number of conditions of consent will be modified as per NSW Heritage Council's advice.

The proposed development is generally consistent with all other provisions of the SEPP.

## **Section 79C(1) Table – Matters for Consideration**

### **Queanbeyan Local Environmental Plan 2012**

The proposed modified development has been assessed in accordance with the requirements of the Queanbeyan Local Environmental Plan 2012 and a summary is provided as follows:

<b>COMMENT</b>		<b>COMPLIES (Yes/No)</b>
<b><i>PART 1 - Preliminary</i></b>		
<b><i>Clause 1.2 Aims of Plan</i></b>		
<p>(a) <i>to facilitate the orderly and economic use and development of land in Queanbeyan based on ecological sustainability principles,</i></p> <p>(b) <i>to provide for a diversity of housing throughout Queanbeyan,</i></p> <p>(c) <i>to provide for a hierarchy of retail, commercial and industrial land uses that encourage economic and business development catering for the retail, commercial and service needs of the community,</i></p> <p>(d) <i>to recognise and protect Queanbeyan's natural, cultural and built heritage including environmentally sensitive areas such as Queanbeyan's native grasslands, the Queanbeyan River and Jerrabomberra Creek,</i></p> <p>(e) <i>to protect the scenic quality, views and vistas from main roads and other vantage points within Queanbeyan of the escarpment and Mount Jerrabomberra,</i></p> <p>(f) <i>to maintain the unique identity and country character of Queanbeyan,</i></p> <p>(g) <i>to facilitate the orderly growth of the urban release area in Googong in a staged manner that promotes a high level of residential amenity and the timely provision of physical and social infrastructure through appropriate phasing of the development of land.</i></p> <p>The proposed modified development is considered generally satisfactory with respect to the aims of the Plan, particularly, the aims listed in sub-clauses (a), (b) and (d) above.</p>		Yes

<b>Clause 1.4 Definitions</b>	
The prescribed definition of the development as approved under the Queanbeyan Local Environmental Plan 1998, being <i>housing for aged or disabled persons</i> , is not changed by the proposed modified development, therefore, the applicable definition under this Plan, being <i>seniors housing</i> , is not a relevant consideration.	Not applicable
<b>Clause 1.9A Suspension Of Covenants, Agreements And Instruments</b>	
No covenants, agreements and instruments restricting the proposed modified development have been identified.	Yes
<b>PART 2 – Permitted or Prohibited Development</b>	
<b>Clause 2.1 Land Use Zones</b>	
The land is in Zone R2 Low Density Residential.	Yes
<b>Clause 2.3 Zone Objectives and Land Use Tables</b>	
<p>The objectives of the zone are:</p> <ul style="list-style-type: none"> <li>• <i>To provide for the housing needs of the community within a low density residential environment.</i></li> <li>• <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></li> <li>• <i>To encourage development that considers the low density amenity of existing and future residents.</i></li> <li>• <i>To encourage development that is designed to recognise the bushland character of the locality where appropriate and to minimize the impact of urban development, particularly on the edge of the urban area.</i></li> </ul>	Yes

<p>The land is in Zone R2 Low Density Residential. The previous applicable zone at the time the original development consent was issued was a high density residential zone. However, seniors housing remains a permissible land use.</p> <p>The proposed modified development is considered to generally meet the above objectives, specifically, by considering the low density amenity of existing and future residents.</p>	
<p><b>Clause 2.7 – Demolition requires development consent</b></p>	
<p>This clause was considered under the original development application and development consent was granted for the demolition of the existing 45 bed aged care facility, 5 individual living units and three detached garages on site.</p>	<p>Yes</p>
<p><b>PART 4 – Principal Development Standards</b></p>	
<p><b>Clause 4.3 – Height of Buildings</b></p>	
<p>The permissible building height for the subject site is 8.5m under the QLEP and under Clause 40 of the SEPP (Housing for Seniors or People with a disability) 2004 maximum building height is limited to 8m. The proposed modified development results in the building having a lower maximum height (compared to the existing approval) of 9.75m to ridge which exceeds the 8m or 8.5m height mentioned above. The proposed modified development contravenes development standards relating to building height contained in both instruments. The change in building height resulted from the replacement of the approved flat concrete roof with a low pitched metal roof. As mentioned elsewhere through this report, the original development application was approved with the height of the proposed building varying from 7.4m up to 10.6m which exceed the maximum building heights mentioned above.</p> <p>The applicant stated that neither SEPP 1 – Development Standard or Clause 4.6 – Exceptions to development standards of the QLEP 2012 are applicable to the subject modification application (Section 96(2) as per separate legal advice (refer to Clause 40 of SEPP (Housing for Seniors or People with a disability) 2004 for more details) and advice from the Department of Planning and Environment (see attachment A). The applicant also advised that a Clause 4.6 variation is not required in relation to the LEP height standard, as this standard does not take precedence over the SEPP (Housing for Seniors or People with a disability) 2004 standard.</p> <p>With respect to the variation in height, the following justification has been submitted for Council’s consideration:</p>	<p><i>Variation.</i></p> <p>However based on the legal advice and written advice from the Department of Planning and Environment, neither SEPP 1 – Development Standard or Clause 4.6 – Exceptions to development standards of the QLEP 2012 are applicable to the subject modification application (Section 96(2)).</p>

- *The main bulk of the building is generally located below the 8.5m height plane, consistent with the approved development, with only the pitched roof generally extending above this level. A low roof pitch is proposed, acknowledging the height limitations in this locality.*
- *The height of the main bulk of the building is relatively unchanged with the approved building having a maximum height of 8.9m to the parapet and the modified building having a maximum height of 9.05m to the eaves.*
- *The perceived maximum height of the building on the site will be reduced by this modification, following removal of the parapet and plant rooms. Further, the pitched roof will provide a reduction in the bulk and scale of the building.*
- *The removal of two of the plant rooms from the rooftop will reduce the visual impact of such structures, with the pitched roof providing a more visually appealing outcome, which has greater regard to neighbourhood character.*
- *The pitched roof design removes the blades which extended from the parapets and provide a more sympathetic and traditional roofline, with eaves.*
- *As noted in the Heritage Assessment prepared by NBR Architecture the amended design will have negligible heritage impact on Kawaree, acceptable visual impact on the Queanbeyan Heritage Conservation Area and negligible heritage impact on the heritage items in the vicinity (Queanbeyan Showground).*

Assessing Officer's Comments:

Clause 4.6 Subclause (2) states that development consent can be granted despite the development contravening a development standard, given that the development standard is not expressly excluded from the operation of this clause. Clause 5.4, Clause 6.1 and Clause 6.2 are expressly excluded from the operation of Clause 4.6, therefore Clause 4.6 can be used to contravene Clause 4.3 of the QLEP 2012. Pursuant to Clause 4.6 Subclause (3) (a) and (b) of the QLEP 2012, it is considered that compliance with this development standard is unnecessary in the circumstances of the case, and there are sufficient environmental planning grounds to justify contravening the development standard.



<p>The proposed modified development is considered to satisfy the relevant objectives of this clause as outlined below:</p> <p><i>(a) to ensure that the height of buildings complement the streetscape or the historic character of the area in which the buildings are located,</i></p> <p>(Please refer to comments previously made in this Report under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.)</p> <p><i>(b) to protect the heritage character of the Heritage Conservation Area and the significance of heritage buildings and heritage items,</i></p> <p>(Please refer to comments previously made in this Report under clause 5.10 of the Queanbeyan Local Environmental Plan 2012.)</p> <p>Due regard has been given to the streetscape and character of the area as well as the built form and land use. It is considered that the proposed modified development does not have a negative impact on the streetscape and is consistent with the locality and character of the area particularly the Heritage Conservation Area and low density zone. The proposed development incorporates a number of materials and colours such as face brickwork, rendered masonry, weatherboard and colorbond and varies landscaping to create a more attractive streetscape. The proposed development incorporates a mixed size windows to create articulation which in turn complements the streetscape. The replacement of approved flat roof with low pitched metal roof is considered to be consistent with the existing buildings on site and in locality. It is considered that the proposed development will have a minimal impact on the adjoining properties in relation to overshadowing. As mentioned above the original development application was approved with the height of the proposed building varying from 7.4m up to 10.6m which is higher than the proposed 9.75m building height under this modification application.</p>	
<b>Clause 4.4– Floor Space Ratio (FSR)</b>	
<p>This clause is not considered relevant to the proposed modified development as the site is not identified on the FSR Map.</p>	<p>Not applicable</p>

**PART 5 – Miscellaneous Provisions**

**Clause 5.9 – Preservation of Trees or Vegetation**

Tree and vegetation removal was considered under the original development application. The proposed modification does not change the amount of vegetation required to be removed.	Yes
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**Clause 5.10 Heritage Conservation**

<p>The site contains a dwelling-house known as “Kawaree” which is heritage listed item of state significance and it is also located with a Heritage Conservation Area. Furthermore, the site is in the vicinity of the Queanbeyan Showgrounds, which are a heritage listed item of state significance.</p> <p>The original proposal was referred to Council’s Heritage Advisor and Heritage Advisory Committee for comment and was also supported by a Statement of Heritage Impact (SoHI). The Heritage Advisor and Committee raised no objections to the original proposal following some changes to the building design as recommended.</p> <p>Pursuant to Section 91 of the Environmental Planning and Assessment Act 1979 the original proposal was also “Integrated Development” requiring the approval of the NSW Heritage Branch under Section 58 of the Heritage Act 1977. The Heritage Branch raised no objections to the original development and issued their General Terms of Approval on 18 September 2012.</p> <p>The proposed modified development was referred to the NSW Heritage Council for comment. The NSW Heritage Council re-issued their General Terms of Approval for the proposed modified development on 24 May 2017. These include specific requirements relating to the management of any archaeology relics that may be uncovered during excavation works and landscaping within the curtilage of the state heritage listed item. A number of conditions of consent will be modified as per NSW Heritage Council’s advice.</p> <p>The previous modification application 100-2012/A was also referred to Council’s Heritage Advisor and the Heritage Branch for comment. Neither the Heritage Advisor nor Heritage Branch have raised any objections to the modified development. The changes were considered to be minor and did not introduce any additional heritage impacts.</p>	Yes
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<p>The proposed modified development was referred to Council's Heritage Advisor and Heritage Advisor Committee for comment and was also supported by a Heritage Impact Statement (HIS). The Heritage Advisor advised that the modifications are relatively minor and unlikely to have any adverse impact on the listed item Kawaree, or on the Queanbeyan Heritage Conservation Area or on the Queanbeyan Showground. The Heritage Advisor has raised no objection to the proposal.</p> <p>The Heritage Advisory Committee also raised no objection to the proposal subject to the inclusion of a condition on any development consent requiring the aluminium louvre screen to the lift overrun and roofing planting area being coloured to match the colour of the roof.</p> <p>Please see Heritage Advisor and Heritage Advisory Committee's comments in the internal referrals section of this Report.</p>	
<b><i>PART 7 – Additional Local Provisions</i></b>	
<b><i>Clause 7.1 – Earthworks</i></b>	
<p>The objective of this clause is to ensure that any earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p> <p>The development involves earthworks, including excavation for a basement level car park, storage area, staff facilities and garbage area. The proposed modified development reduces the breadth of the excavation required for the basement. No adverse impacts from the excavation are anticipated. Conditions of consent imposed on the original consent and previously modified consent are still applicable and are not required to be altered.</p>	<p>Yes with conditions.</p>
<b><i>Clause 7.2 Flood Planning</i></b>	
<p>This clause is not considered relevant to the proposed development as the site is not identified as 'Flood planning area' on the Flood Planning Map and has not been identified as land at or below the <i>flood planning level</i> as defined.</p>	<p>Not applicable</p>

<b>Clause 7.3 Terrestrial Biodiversity</b>	
This clause is not considered relevant to the proposed development as the site is not identified as 'Biodiversity' on the Terrestrial Biodiversity Map.	No applicable
<b>Clause 7.4 Riparian Land and Watercourses</b>	
This clause is not considered relevant to the proposed development as the site is not identified as "Watercourse" on the Riparian Lands and Watercourses Map.	Not applicable
<b>Clause 7.5 Scenic Protection</b>	
This clause is not considered relevant to the proposed development as the site is not identified as 'Scenic Protection Area' on the Scenic Protection Map.	Not applicable
<b>Clause 7.6 Airspace Operations</b>	
The proposed development will not penetrate the Obstacle Limitations Surface Map for the Canberra Airport. Therefore the application was not required to be referred to the relevant Commonwealth body for comment.	Not applicable
<b>Clause 7.7 Development in Areas Subject to Aircraft Noise</b>	
This clause is not considered relevant to the proposed development as the site is not located near the Canberra Airport or within an ANEF contour of 20 or greater.	Not applicable
<b>Clause 7.8 Active Street Frontage</b>	
This clause is not considered relevant to the proposed development as the site is not identified as "Active street frontage" on the Active_Street Frontages Map.	Not applicable

<b>Clause 7.9 – Essential Services</b>	
The provision of essential services including suitable vehicular access was considered in the original development. The changes to the vehicular access proposed in the modification have been assessed by the Council's Development Engineer and are considered adequate. Refer to the assessment by Council's Development Engineer in the internal referrals section of this Report.	Yes
<b>Clause 7.10 – Development Near Cooma Road Quarry</b>	
This clause is not considered relevant to the proposed development as the site is not identified as "Buffer Area" on the Quarry Buffer Area Map.	Not applicable
<b>Clause 7.11 – Development Near HMAS Harman</b>	
This clause is not considered relevant to the proposed development as the site is not located within 2 kilometres of HMAS Harman or within Zone IN1 General Industrial or Zone IN2 Light Industrial.	Not applicable

#### **Any Draft Environmental Planning Instruments**

No draft environmental planning instruments apply to the site.

### **Any Development Control Plan**

The proposed modified development has been assessed in accordance with the requirements of Queanbeyan Development Control Plan 2012 and a summary is provided as follows:

<b>Queanbeyan DCP 2012 Comments</b>	<b>COMPLIES (Yes/No)</b>
<b><i>Part 1 – About This Development Control Plan</i></b>	
<b>1.8 Public Notification Of A Development Application</b>  For the original development application two submissions from the same submitter were received as a result of the public notification process. The issues raised in these submissions related to the management of sewerage, privacy, traffic generation and property values. These issues were either satisfactorily addressed or considered to be irrelevant to the original assessment.  The previously approved modification application 100-2012/A was also required to be notified to adjoining owners and occupiers and no submissions were received.  The subject modification application was advertised in the Queanbeyan Age on 24 January 2017 and was also notified to adjoining owners and two submissions were received. One submission was from the submitter who made a written submission in relation to the original development application. The issues raised in this submission related to the privacy, traffic generation and property values. The other submission was from the owner/occupier of an existing independent living unit. The issues raised related to privacy, noise, safety and amenity, access and existing retaining wall along Canberra Avenue.  The relevant issues raised in the submissions have been addressed in “Engagement” section of this Report.	Yes

**Part 2 – All Zones**

**2.2 Car Parking**

The DCP aims to provide on-site car parking to cater for the increased demand brought about by the development of the site and the provision of car parking which is functional, safe and attractive.

The DCP states that the number of car parks required for seniors housing developments is to be determined by the SEPP (Housing for seniors or people with a disability) 2004.

The originally approved development provided a total of 95 spaces, including 55 parks within the basement of the new building for staff and visitor. A further 18 spaces were provided at ground level (15 of which are existing) and designated for visitors. The final 22 spaces are associated with the existing independent living units. Within the basement there are two car parks designated for disabled persons.

The total number and mix of car parking spaces has not been altered by the proposed modified development, rather, the basement area has been reconfigured and reduced in size. It is therefore not considered to generate any increase in demand for off-street car parking facilities.

Council's Development Engineer has accessed the design, dimensions and layout of the proposed modified vehicle entry/exit, manoeuvring and parking facilities as being satisfactory.

Yes

**2.3 Environmental Management**

The proposed modified development remains satisfactory in regard to the relevant environmental considerations, including matters relating to waste management and noise.

Yes

**2.4 Contaminated Land Management**

The proposed modified development remains satisfactory in regard to State Environmental Planning Policy 55 – Remediation of Land (SEPP 55) and therefore also with respect to this clause.

Yes

<p><b>2.5 Flood Management</b></p> <p>The subject site is not within a flood prone area.</p>	<p>Not applicable</p>
<p><b>2.6 Landscaping</b></p> <p>A satisfactory Category 2 landscape plan prepared by appropriately qualified consultant has been submitted and approved by the JRPP as part of the original development application.</p> <p>Council subsequently approved a modified Category 2 landscape plan prepared by Council's accredited landscape consultant, submitted as part of the previously approved modification application 100-2012/A. The modified plan reflects the changes to the internal courtyards and the layout of the basement.</p> <p>The approved landscape plan has not been altered by the proposed modified development.</p> <p>A condition imposed on the previously modified development consent requiring a more detailed landscape plan to be submitted to Council prior to the issue of any Construction Certificate (Building) is to remain on this modified consent (should it be granted).</p>	<p>Yes</p>
<p><b>2.7 Soil, Water and Vegetation Management Plan (SWVM Plans)</b></p> <p>The proposed modified development will involve less earthworks. Appropriate consent conditions imposed on the modified development consent to minimise erosion from the site are to remain on this modified consent (should it be granted).</p>	<p>Yes</p>
<p><b>2.8 Guidelines for Bushfire Prone Areas</b></p> <p>The site is not identified as bushfire prone land.</p>	<p>Not applicable</p>



<p><b>2.9 Safe Design</b></p> <p>The original approved development was considered generally satisfactory with respect to the crime prevention through environmental design (CPTED) principles of the DCP. The original development application was identified by the NSW Police as a moderate crime risk. A number of conditions and advisory notes were recommended to minimise opportunities for crime within the development.</p> <p>The previously approved modification application 100-2012/A was also referred to the NSW Police for comment. No additional recommendations were made and the proposal did not introduce any relevant changes in regard to these principles. Two issues relating to basement security and vehicle access and pedestrian access were previously raised and satisfactorily addressed.</p> <p>The subject modification application was also referred to the NSW Police for comment. The proposed modified development was identified by the NSW Police as a Moderate Crime Risk. The NSW Police advised that comments contained in the original report issued for the original development application is still relevant to this modification application. NSW Police noted that changes to balcony locations will increase natural surveillance of common areas. Also concerns over the parking area and access to the area, raised under the original application, have been satisfactorily addressed. No additional recommendations were made and the proposal does not introduce any relevant changes in regard to Crime Prevention Through Environment Design (CPTED) principles.</p>	<p>Yes</p>
<p><b>2.11 Height of Buildings</b></p> <p>See previous discussion under SEPP (Housing for Seniors or People with a Disability) 2004 and Clause 4.3 – Height of Buildings of the QLEP 2012.</p>	<p>Yes</p>
<p><b>2.13 Preservation of Trees and Vegetation</b></p> <p>Tree and vegetation removal was considered under the original development application. The proposed modification does not change the amount of vegetation required to be removed.</p>	<p>Yes</p>

#### **Part 4 – Heritage and Conservation**

##### **4.6 New buildings (Dwellings and Commercial)**

The site contains a dwelling-house known as “Kawaree” which is heritage listed item of state significance and it is also located with a Heritage Conservation Area. Furthermore, the site is in the vicinity of the Queanbeyan Showgrounds, which are a heritage listed item of state significance.

The original development application was assessed under Council’s former DCP 28 – Heritage and Conservation which was replaced by the DCP Part 4 – Heritage and Conservation. The original development application was considered to satisfy the relevant clause of DCP 28 and was supported by Council’s Heritage Advisor and Heritage Advisory Committee. The proposed development was considered to be satisfactory with regards to impacts on the existing heritage item of state significance on the site, heritage items in the vicinity and the heritage conservation area.

The approved modification application 100-2012/A was considered under the current DCP Part 4 – Heritage and Conservation and was considered to be satisfactory in regards to the relevant provisions of the DCP particularly *Clause 4.6 – New Buildings (Dwellings and Commercial)*. The modified building remained sympathetic to the Heritage Conservation Area and the Heritage Items known as “Kawaree” and the Queanbeyan Showgrounds in terms of character, scale, height, form, siting, materials, colour and detailing.

The proposed modified development is also considered to be satisfactory in regard to the relevant provisions of this clause. The modified building remains sympathetic to the Heritage Conservation Area and the Heritage Items known as “Kawaree” and the Queanbeyan Showgrounds in terms of character, scale, height, form, siting, materials, colour and detailing.

The proposed modified development was referred to the NSW Heritage Council for comment. The NSW Heritage Council re-issued their General Terms of Approval for the proposed modified development on 24 May 2017. These include specific requirements relating to the management of any archaeology relics that may be uncovered during excavation works and landscaping within the curtilage of the state heritage listed item. A number of conditions of consent will be modified as per NSW Heritage Council’s advice.

The proposed modified development was referred to Council’s Heritage Advisor and Heritage Advisory Committee for comment and was also supported by a Heritage Impact Statement (HIS).

The Heritage Advisor advised that the modifications are relatively

Yes

minor and unlikely to have any adverse impact on the listed item Kawaree, or on the Queanbeyan Heritage Conservation Area or on the Queanbeyan Showground. The Heritage Advisor has raised no objection to the proposal. The Heritage Advisor stated that the modified design may in fact be a positive benefit, as service equipment will be deleted from the roof which will enable a pitched roof that is more in keeping with local character. This result in the building will retain suitable articulation and modulation to its exterior elevation.

The proposed modifications are acceptable from a heritage perspective. The Heritage Advisory Committee also raised no objection to the proposal subject to the inclusion of a condition on any development consent requiring the aluminium louvre screen to the lift overrun and roofing planting area being coloured to match the colour of the roof.

As mentioned above, the proposal was supported by a Heritage Impact Statement prepared by NBR Architecture Heritage which concludes that:

*"Given the heritage significance of Kawaree, existing buildings, the conservation area generally and the current zoned use of the site, we recommend the heritage aspects of this proposal are accepted, for the following reasons:*

- a) The works would not materially affect Kawaree or its heritage significance.*
- b) No heritage fabric would be removed or altered as a result of this application.*
- c) The proposed changes would not increase the footprint of the existing building.*
- d) There would be no change to setbacks, landscaping or existing views of the residents of Canberra Avenue and Campbell Street.*
- e) The proposed building would have not increase the existing visual impacts or the heritage significance of the Queanbeyan Showground.*
- f) The proposed building would have not increase the existing visual impacts or the heritage significance of Kawaree.*

*The proposed redevelopment of facilities would enable Warrigal Care to continue its occupation of the current site, and to be a focus for aged health care facilities in the Queanbeyan region generally."*

<p><b>4.7 Demolition</b></p> <p>This provision was considered under the original development application and development consent was granted for the demolition of the existing 45 bed aged care facility, 5 individual living units and three detached garages on site. The proposed modified development is considered to be satisfactory in regard to the relevant provisions of this clause. Conditions of consent imposed on the original consent and previously modified consent, in relation to the impact of development on adjoining properties and environment by way of noise, vibration and the like are still applicable and are not required to be altered.</p>	Yes
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### Additional Planning Considerations

The following additional planning matters apply to the proposed modified development:

MATTERS FOR CONSIDERATION	COMPLIES (Yes/No)
<b><i>Environmental Planning and Assessment Act Regulation 2000</i></b>	
<p><i>The provisions of any matters prescribed by the Regulations, which apply to the land to which the proposed modified development relates, must be considered.</i></p> <p><i>Clause 92 - Australian Standard AS 2601-1991 (Demolition of Structures).</i></p> <p><i>Clause 93 - Fire Safety Considerations (change of use of an existing building).</i></p> <p><i>Clause 94 - Fire Safety Considerations (rebuilding/altering/enlarging/extending existing building).</i></p> <p><i>Clause 94A - Fire Safety Considerations (temporary structures).</i></p> <p>The application proposes demolition of existing aged care facility, five independent living units and three detached garages and the Australian Standard AS 2601-1991 (Demolition of Structures) is to apply.</p>	Yes

<b><i>The Likely Impacts of the Development</i></b>	
<p><i>Context and Setting</i> – The proposed development is designed to complement the desirable aspects of the locality, including the large areas of public open space and the heritage conservation area, nearby heritage listed items and the existing heritage item on the site.</p> <p>There will be minimal impacts on adjoining land use activities. The proposal is not considered to be out of context with surrounding residential, commercial and recreational land uses.</p>	Yes
<p><i>Access, Transport and Traffic</i> – The proposed modified development's impact in relation to access, transport and traffic has been adequately addressed by the applicant. The Roads and Maritime Authority and Council's Development Engineer are satisfied with access and traffic arrangements for the development. Conditions of consent imposed on the original consent and previously modified consent are still applicable and are not required to be altered. A new condition of consent recommended by the RMS will be imposed (if granted) as follows:</p> <p><i>"The use of the eastern driveway by waste collection vehicles must ensure compliance with the following:</i></p> <ul style="list-style-type: none"> <li><i>• Vehicles must enter and exit in a forward direction;</i></li> <li><i>• Vehicles must not adversely impact upon the safety and efficiency of the adjoining classified road (i.e. Canberra Avenue); and</i></li> <li><i>• Vehicles must undertake the ongoing collection of garbage as detailed in the email from Peter Shorten dated 23 March 2017 and letter from Cardno dated 14 March 2017.</i></li> </ul>	Yes with conditions

<i>Public Domain</i> – The proposed modified development's impact on the public domain is considered to be positive overall. Restricting access to the eastern Canberra Avenue driveway to just garbage collection vehicles and removing this as a pedestrian entry will improve the safety and operation of the nearby intersection.	Yes
<i>Utilities</i> – Utilities such as water, sewer, electricity and telecommunication services will be provided for the development.	Yes
<i>Heritage</i> - Heritage impacts of the proposed modified development are satisfactory. Refer to previous comments in this Report.	Yes
<i>Other land resources</i> - The proposed modified development will not affect the future use or conservation of valuable land resources such as productive agricultural land; mineral and extractive resources; and water supply catchments.	Yes
<i>Water</i> - The proposed modified development will have minimal impact on the conservation of water resources and the water cycle.	Yes
<i>Soils</i> - The proposed modified development will have minimal adverse impact on soil conservation. The soils are suitable for the development.	Yes

<p><i>Air &amp; Microclimate</i> – The proposed modified development will have minimal impact on air quality and microclimatic conditions. Conditions of consent imposed on the original consent and previously modified consent to prevent air pollution such as dust are still applicable and are not required to be altered by this application.</p>	Yes
<p><i>Flora &amp; Fauna</i> - No significant negative impacts on flora and fauna are expected to result from the proposal. Tree and vegetation removal was considered under the original development application. The proposed modification does not change the amount of vegetation required to be removed.</p>	Yes
<p><i>Waste</i> – Adequate waste facilities are available for the proposed development. Adequate provision also has been made for the management of waste during construction.</p>	Yes
<p><i>Energy</i> – This provision was considered under the original development application and the proposed modified development will have minimal impact on energy efficient requirements. The applicant has generally designed the structures to be energy efficient through passive design, orientation and construction strategies, insulation and fit out standards. Included in the design are reasonable sun and daylight access and acceptable natural cross flow ventilation. The application will also need to satisfy Part J – Energy Efficiency of the Building Code of Australia (BCA).</p>	Yes

<p><i>Noise and Vibration</i> – Possible noise impact from construction noise and vibration from plant and equipment whilst construction of the proposal is undertaken may be of concern in the locality. Also the proposed new residential care facility is potentially affected by road traffic noise from Canberra Avenue. Noise and vibration impacts were considered under the original development application. An Acoustic Review prepared by Renzo Tonin &amp; Associates February 2012 was submitted as part of the original development application and the following potential acoustic issues were identified:</p> <ul style="list-style-type: none"> <li><i>i. Noise intrusion into residential apartments from road traffic;</i></li> <li><i>ii. Noise generated from any mechanical services equipment; and</i></li> <li><i>iii. Noise generated by additional traffic on the local road network.</i></li> </ul> <p>It was considered that the submitted Acoustic Review adequately identifies the proposed development's potential acoustic issues and that a detailed acoustic assessment is not required to be done prior to the issue of a development consent. A condition of consent was imposed on the original consent and previously modified consent requiring a detailed assessment to be submitted to Council for review prior to the issue of any Construction Certificate (Building), in accordance with the recommendations in the Acoustic Review and with reference to impacts on independent living units that are adjacent to the proposed internal driveway leading to the basement car parking.</p> <p>Conditions of consent imposed on the original consent and previously modified consent to minimise noise and vibration impacts including standard amenity conditions regarding hours of construction and complaints handling procedures are still applicable to this modification (if granted) and are not required to be altered.</p>	<p>Yes</p>
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<i>Natural Hazards</i> - The site is not identified as being affected by natural hazards.	Yes
<i>Technological Hazards</i> – No technological hazards are known to affect the site.	Yes
<i>Safety, Security and Crime Prevention</i> – The proposed modified development is able to comply with the relevant DCP on crime prevention through environmental design. The NSW Police has assessed the proposed modification and conducted a Safer by Design Evaluation and identified the proposal as a moderate crime risk. Modified conditions and advisory notes imposed on the previously approved modification A is to remain on this modified consent (should it be granted). See further detailed discussion under External Referral below.	Yes
<i>Social Impact in the Locality</i> – The social impacts of the proposal are anticipated to be minimal.	Yes
<i>Economic Impact in the Locality</i> – Any economic impact within the locality from the proposal is likely to be positive. The proposal is likely to generate employment opportunities during construction and ongoing use and provision of additional aged care facilities for the City to meet local demands.	Yes

<i>Site Design and Internal Design</i> – The site design and internal design has been assessed under the relevant environmental planning instruments and development control plans is considered to be satisfactory.	Yes
<i>Construction</i> – The construction stage of the proposed modified development will have the potential to impact on adjoining properties and the environment for a short period of time. The proposed modified development, if carried out in compliance with recommended conditions of consent (if granted) is not expected to have any significant negative impact on the adjoining properties and their occupants and the environment by way of noise, erosion and the like.	Yes
<i>Cumulative Impacts</i> – Cumulative impacts relate to the small impacts of developments in an area that when considered in unison can result in detrimental impact on the natural or built environment. It is considered unlikely that the proposed modified development will result in adverse cumulative impact.	Yes
<b><i>The Suitability of the Site for the Development</i></b>	
<i>Does the proposal fit in the locality?</i> - The proposed development is consistent with the established mixed character of the immediate locality including residential, commercial and recreational land uses and is considered to be acceptable in this instance.	Yes
<i>Are the site attributes conducive to development?</i> – Site attributes such as configuration, size and slope, are considered to be generally conducive to the proposed modified development.	Yes

<b><i>Have any submissions been made in accordance with the Act or the Regulations?</i></b>	
<i>Public submissions</i> - The subject modification application was advertised in the Queanbeyan Age on 24 January 2017 and was also notified to adjoining owners and two submissions were received. The relevant issues raised in the submissions have been addressed in “Engagement” section below.	Yes
<i>Submissions from Public Authorities</i> – The NSW Heritage Branch, NSW Roads and Maritime Services and the NSW Police were invited to comment on the proposed modified development. As previously discussed in this Assessment none of these external agencies/authorities have raised any objections to the subject modification application. See below for more details.	Yes
<b><i>The Public Interest</i></b>	
The proposed modified development does not result in a development that is incompatible with the public interest.	Yes
<b><i>Government and Community Interest</i></b>	
The proposed modified development, if carried out in compliance with recommended conditions of consent (if granted) is not expected to have any significant negative impact with respect to government and community interest.	Yes
<b><i>Development Contributions</i></b>	
Development contributions imposed on the original development consent under Section 94 of the Environmental Planning and Assessment Act 1979 and Section 64 of the Local Government Act 1993 are not impacted on by the subject modification.	Yes

## **External Referrals**

### **NSW Heritage Council**

The proposed modified development was referred to the NSW Heritage Council for comment. The NSW Heritage Council re-issued their General Terms of Approval for the proposed modified development on 24 May 2017. These include specific requirements relating to the management of any archaeology relics that may be uncovered during excavation works and landscaping within the curtilage of the state heritage listed item. A number of conditions of consent will be modified as per NSW Heritage Council's advice.

### **NSW Roads and Maritime Services (RMS)**

The proposed modified development was referred to the RMS for comment. After a few consultations with the applicant and amendment to the plans, the RMS has raised no objection to the proposed modification subject to the following additional comment to be included in the conditions of any amended development consent issued;

*"The use of the eastern driveway by waste collection vehicles must ensure compliance with the following:*

- *Vehicles must enter and exit in a forward direction;*
- *Vehicles must not adversely impact upon the safety and efficiency of the adjoining classified road (i.e. Canberra Avenue); and*
- *Vehicles must undertake the ongoing collection of garbage as detailed in the email from Peter Shorten dated 23 March 2017 and letter from Cardno dated 14 March 2017 (copy attached)."*

A new condition is recommended to be imposed as per RMS's advice above, should consent be granted.

### **NSW Police**

The subject modification application was referred to the NSW Police for comment. The proposed modified development was identified by the NSW Police as a Moderate Crime Risk. The NSW Police advised that comments contained in the original report issued for the original development application is still relevant to this modification application. NSW Police noted that changes to balcony locations will increase natural surveillance of common areas. Also concerns over the parking area and access to the area, raised under the original application, have been satisfactorily addressed. No additional recommendations were made and the proposal does not introduce any relevant changes in regard to Crime Prevention Through Environment Design (CPTED) principles.

## Internal Referrals

### ***Council's Building Surveyor***

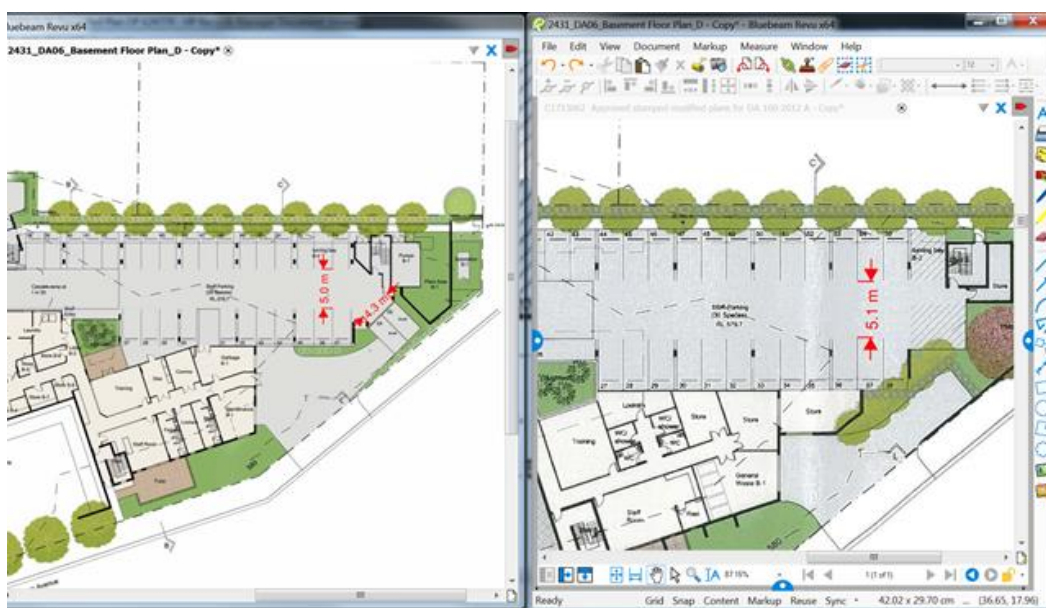
Council's Building Surveyor advised that the proposed modified development generally appears to comply with the BCA and has raised no objection to the proposal. Conditions imposed on the previous development consent are to remain on this modified consent (should it be granted).

### ***Council's Development Engineer***

Council's Development Engineer advises:

#### Traffic and Parking:

- a) The garbage store has been relocated to adjacent to the basement car park and consequently an additional access point through the parking area has been added in the position of where car space 31 was previously located.
- b) The change in basement plan shape has resulting in the previous turning area being changed to what was previously parking space 54. The resulting loss of the two parking spaces has been made up with two small parking spaces.
- c) The store which was previously adjacent to parking spaces 34 to 36 has been relocated into the building footprint which gives additional manoeuvring for heavy waste collection vehicles. Though this is offset to some degree by the reduced width runoff area and space now occupied by small car parking spaces.
- d) The columns around the proposed small car spaces have been revised such that the openings to the car spaces are now full width.





#### Access:

The access/manoeuvring area off Canberra Avenue has been modified to allow the positioning of small car spaces, which has effectively reduced the “runoff” area for manoeuvring heavy vehicles for garbage collection.

It is understood swept paths provided to the RMS demonstrated that only a 9.9m waste collection vehicle will be able to safely manoeuvre in and out of the site in a forward direction and it is noted that previous conditions of consent have limited waste collection vehicle to 9.9m length. Thus previous conditions remain applicable. Additionally, it has been requested that garbage collection is undertaken in a methodology stipulated in correspondence between RMS and the applicants Design Consultant. This is seen as extremely difficult for Council to regulate and enforce.

The opening into the small car spaces has been modified to remove the previous restriction. Manoeuvrability of the resulting parking spaces is marginal with both parking spaces 54 and 55 requiring the use of the turn bay to turn around for exiting. Manoeuvring into and out of parking space 54 also appears to be within the path of parking space 37. Combined with a 5m aisle width for two way movements (previously approved) manoeuvring into and out of the parking area is considered marginal.

The revised plan submitted 16/5/2017 (Drawing 2431.DA06 Issue F) has relocated the turning bay to car space 37 to allow access and egress into parking space 54 which is considered satisfactory

## Section 64 Headworks Contribution Calculations

No additional Section 64 Contributions are applicable to the application.

### ***Council's Environmental Health Officer***

Council's Environmental Health Officer has reviewed the proposed modified development and has raised no objection to the proposal. Conditions imposed on the previous development consent are to remain on this modified consent (should it be granted).

### **Council's Heritage Advisor**

Council's Heritage Advisor advises:

*The modifications are relatively minor and unlikely to have any adverse impact on the listed item Kawaree, or on the Queanbeyan Heritage Conservation Area or on the Queanbeyan Showground.*

*The proposal is accompanied by an acceptable Heritage Impact Statement that also concludes that there will be no adverse impact. There may in fact be a positive benefit, as service equipment will be deleted from the roof which will enable a pitched roof that is more in keeping with local character. The building will retain suitable articulation and modulation to its exterior elevation.*

*The proposed modifications are acceptable from a heritage perspective.*

### **Heritage Advisory Committee**

The proposed modified development was referred to the Heritage Advisory Committee for comment. The Committee has raised no objection to the modified application subject to the inclusion of a condition on any development consent requiring the aluminium louvre screen to lift overrun and roofing planting area being coloured to match the colour of the roof.

### **Engagement**

The subject modification application was advertised in the Queanbeyan Age on 24 January 2017 and was also notified to adjoining owners and two submissions were received. One submission was from the submitter who made a written submission in relation to the original development application. The issues raised in this submission related to the privacy, traffic generation and property values. The other submission was from the owner/occupier of an existing independent living unit 1. No submission was received from this submitter when the original development application was notified to adjoining owners. The issues raised related to privacy, noise, safety and amenity, access and existing retaining wall along Canberra Avenue.

## 1. Issue: Amenity and privacy impacts

Comment: Privacy issue raised by the submitter who made a written submission on the original application was considered under the original application. The submitter's property is located approximately 43m from the proposed new building at the closest point and is separated from the development site by an open air car park. It is considered that there is a sufficient distance between the two properties to render any privacy impacts from the proposed new building as negligible. In addition, the main communal and activity areas where the majority of residents will likely congregate during the day are located towards the Canberra Avenue frontage.

Another submitter raised that the use of the existing western driveway off Canberra Avenue as the main entry into the proposed development will result in a loss of amenity for those residents in independent living units, especially Unit 1, from extra traffic. The submitter also raised whether there is a possibility to use the eastern driveway off Canberra Avenue as a main entry to the proposed development. Both entries to the site off Canberra Avenue were considered and approved under the original development application. The eastern driveway off Canberra Avenue is restricted to use by waste collection vehicles only and other vehicles will use the western driveway off Canberra Avenue to access the proposed development. The subject modification does not seek to alter these access points.

The submitter is concerned about an overlooking issue from the two storey building. The submitter also raised that there would be a significant increase in the number of staff and the number of visitors accessing the site would lead to loss of enjoyment, comfort and security. These issues have been considered under the original development application. The proposed modified development does not change the number of stories of the proposed buildings, access or number of aged care units within the development. Appropriate signage and directions will be erected at the entry/exit and throughout the site to provide guidance to visitors in locating main areas and keep them away from restricted areas.

Concerns also raised in relation to the impact of the proposed sensor lighting, plant and services equipment on the amenity of existing independent living units. Proposed lighting within the development has been addressed under the original development application. A condition of consent was imposed on the original consent requiring a detailed lighting plan to be submitted to and approved by Council prior to the issue of any Construction Certificate (Building). Noise impact from the proposed plant and services equipment has also been addressed under the original development application and conditions of consent imposed on the original consent are still applicable.



2. Issue: Traffic impact including access

Comment: The submitter raised that the extra traffic and heavy vehicles using the Bowling Club driveway next to his house would generate excess noise, dust and fumes which will affecting health and wellbeing. Also, significant increase in patient numbers which in turn will lead to a dramatic and significant increase in the number of staff, the number of visitors and the number of service and delivery vehicles would have impact on the George Street which is a main access to the submitter's property.

These issues have been considered under the original development application. All vehicles associated with the new building, including delivery and service vehicles, access the site from one of the two driveway entries off Canberra Avenue. No additional vehicles are anticipated to require access to George Street as a result of the proposed development. There is no internal vehicle linkage between the George Street entry and the proposed new building, or the two Canberra Avenue entry points. The only vehicles that will access the site from George Street will be residents and visitors of the existing independent living units. Therefore, any additional traffic generated by the proposed development will not adversely impact the submitter.

3. Issue: Loss of property value

Comment: The submitter believes that, based on their concerns listed above, that their property will suffer a significant loss in value and therefore object to the proposed development. This issue has been considered under the original development application.

No evidence has been submitted that indicates that the proposed development will result in decreased property values. Regardless, potential impact on nearby property values is not an environmental or amenity based consideration in development assessment.

4. Issue: Noise impact from extra traffic

Comment: Noise impacts on existing independent living units from extra traffic and gate in the basement car park have been addressed under the original development application. A condition of consent was imposed on the original consent requiring a detailed acoustic assessment to be carried out and submitted to Council, with reference to impacts on existing independent living units that are adjacent to the proposed internal driveway leading to the basement car parking.

5. Issue: Concern is raised regarding the proposed footpath and relocation of mailboxes

Comment: The submitter was concerned about the safety of residents when walking to the mailboxes to get their mail. It is unclear which mailboxes or which residents are affected. The proposed modified development does not involve any changes to the existing or approved mailboxes or footpath lead to the mailboxes.

6. Issue: Existing brick wall along Canberra Avenue and existing garden around the independent living units

Comment: Question was raised in relation to the existing brick wall along Canberra Avenue, whether it will be retained or removed and any proposed remediation plan for the existing garden area. The proposed modifications do not involve any changes to the existing garden area around the independent living units and existing brick wall along Canberra Avenue. The original approval involves the removal of five trees on site, mainly to allow for the new construction. One immature tree was proposed to be removed from within the curtilage of the heritage item to allow for a new pedestrian entry path. The original development application also involves the replacement of existing solid brick 2m high wall that runs along the entire length of the Canberra Avenue frontage with a mixture of soft landscaping, stepped retaining walls and areas of open and solid fencing. This will contribute to reducing the visual bulk of the building when viewed from Canberra Avenue.

7. Issue: Impacts on the rear yard/private open space of existing independent living unit 1 including clothes line and existing low wall.

Comment: The proposed modified development does not increase the building footprint or have any impact on the existing independent living unit 1's rear yard. Any impacts on the existing independent living units were considered under the original development application.

## **Conclusion**

The submitted proposal for modification of development consent 100-2012/A for the demolition of an existing aged care facility, five independent living units and three detached garages, construction of new 125 bed aged care facility on Lot 1 DP 774149 18 George Street, Lot 2 DP 739287 50 Canberra Avenue and Lot A DP 33538 111 Campbell Street, Queanbeyan NSW 2620 is a s96(2) modification and is a development supported by a Statement of Environmental Effects. The proposal was advertised and notified to adjoining owner/occupiers and two submissions were received. Comments were also sought from the NSW Heritage Branch, NSW Roads and Maritime Services and the NSW Police and no objections were raised.

The proposal has been assessed under Section 96 and Section 79C of the *Environmental Planning & Assessment Act 1979* including the relevant provisions of Queanbeyan Local Environmental Plan 2012 and Queanbeyan Development Control Plan 2012. The modified development satisfies the requirements and achieves the objectives of these instruments.

The main issues arising during the assessment relate to requested variations to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. (Refer to the assessment under the SEPP for more details).

*Conditions proposed to be modified:*

- Proposed new conditions:*

- ## Recommendations

- Amend condition 2 as follows:***

- 2. Prior to the issue of the Construction Certificate (Building) revised plans shall be submitted to and approved by Council detailing the treatment to the following windows on the northern elevation of the building to minimise the impact on privacy of adjoining and nearby residential properties. Suitable treatment shall include a combination of angled louvres and/or windows and landscape elements. Obscured and translucent glazing is not to be used.**

**Affected Units - Units C6 – C9, C11, C13, C15 & C17 – C18 on ground floor level  
Units E1 – E3, E7, E9, E11 – E13 on upper floor level**

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***Amend condition 5 as follows:***

5. Prior to the release of the Construction Certificate (Building) a detailed acoustic assessment shall be undertaken by a suitably qualified consultant during the detailed design phase of the development in order to address the following acoustic issues identified in the acoustic review submitted with the application.
- Design treatments to the building required to ameliorate traffic noise from vehicles travelling to and from the basement parking area including existing independent living units 36 to 40 and proposed units A1 to A5 on the ground level and units D1 – D4, D8 – D11, D13, D15, D17 – D19 on the upper level.
  - Design treatments to the building required to ameliorate traffic noise from Canberra Avenue including units B1, B2, B5, B7 – B10, C 16 and C18 on the ground floor level and units D1 – D7, E1, E4, E21 – E24, E26 and E29 – E32 on the upper floor level.

Any recommendations of the detailed acoustic assessment shall be incorporated into the plans submitted with Construction Certificate for the building.

REASON: To ensure that the new aged care facility and increased vehicle manoeuvrability on site does not impact on the amenity of the existing independent living units on site. **(46.14)**

***Amend condition 21 as follows:***

21. The development must be carried out generally in accordance with the application and supporting documents lodged with Council and the Development Plan bearing the Queanbeyan City Council approval stamp, drawn by Hodges Shorten Architects dated 17 February, 18 July 2012, and any amended plans approved under subsequent modification(s) to the development consent, except where varied by notations made in red ink by Council or conditions of approval.

REASON: To ensure the development is completed in accordance with the approved plans. **(22.01)**

***Impose a new condition 20A as follows:***

- 20A. Colours of aluminium louvre screen to the lift overrun and roofing planting area to match the colour of the roof.

REASON: To ensure the building is not visually obtrusive and that it is compatible with the natural and built environments in the locality. **(59.01)**

***Impose a new condition 38A as follows:***

**38A. Waste disposal vehicles accessing the eastern driveway of the site are to be rear loading only. Waste disposal vehicles are to enter and exit from the eastern access in a forward direction as shown in Cardno letter dated 14 March 2017 (Ref. 80017066).**

REASON: To ensure waste disposal vehicles safely enter and exit the site. (76.01)

2. *That those persons who lodged a submission on the application be advised in writing of the determination of the application.*
3. *That the NSW Heritage Branch, the NSW Roads and Maritime Services and NSW Police be forwarded a copy of Notice of Determination.*

## **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

- 1. Prior to the issue of the Construction Certificate (Building) a detailed Soil, Water and Vegetation Management Plan, shall be submitted to and approved by Council.**

REASON: To comply with the provisions of Development Control Plan 41 – Soil, Water and Vegetation Management and to minimise soil erosion and disturbance to the environment. **(46.01)**

- 2. Prior to the issue of the Construction Certificate (Building) revised plans shall be submitted to and approved by Council detailing the treatment to the following windows on the northern elevation of the building to minimise the impact on privacy of adjoining and nearby residential properties. Suitable treatment shall include a combination of angled louvers and/or windows and landscape elements. Obscured and translucent glazing is not to be used.**

**Affected Units -** Units C6 – C9, C11, C13, C15 & C17 – C18 on ground floor level  
Units E1 – E3, E7, E9, E11 – E13 on upper floor level

REASON: To ensure that appropriate measures are installed as window treatments to minimise the impact on privacy intrusion on adjacent residential development. **(46.14)**

- 3. Prior to the issue of the Construction Certificate (Building) a Trade Waste Application (C5) to install a waste treatment device or devices must be submitted to and approved by Council as the local water and sewer authority. The waste treatment devices proposed should be able to cater for discharges from the following sources:**

- Kitchen**
- Café**
- Laundry**
- Hairdresser**

**The application should include the following details:**

- Details and location of all processes, tanks, pits and apparatus associated with the generation of commercial waste;**
- Specifications of the treatment system including capacity/dimensions, material of construction and lining of the proposed pre-treatment facilities;**
- Details of pipes and floor drainage conveying the effluent; and**

- A detailed sewerage drainage plan.

**For further information regarding Trade Waste treatment and discharge please contact Council's Trade Waste Officer on (02) 6285 6000.**

**REASON:** To ensure compliance with Section 68 of the Local Government Act 1993, Queanbeyan City Council Policy for Discharge of Liquid Trade Waste into Council's Sewer 2004/05 and to protect Council's Sewerage System. **(46.05)**

**4. Prior to release of the Construction Certificate (Building) a Construction Management Plan for the proposed construction works must be submitted to and approved by Council. The plan must:**

- a. describe the proposed construction works;
- b. outline the proposed construction program;
- c. set standards and performance criteria for each of the relevant construction issues [see (h) below];
- d. describe what actions and measures would be implemented to ensure that these works comply with the specified standards and performance measures;
- e. describe how the effectiveness of these actions and measures would be monitored during the proposed works;
- f. describe what procedures would be implemented to receive, register, report and respond to any complaints during the construction works;
- g. identify the key personnel who would be involved in the construction works, and provide contact numbers for this personnel; and
- h. include a detailed:
  - Waste Management Plan for wastes generated during the demolition and construction phases of the development;
  - Environmental Management Plan incorporating:
    - Noise Management;
    - Dust Management;
  - A Parking and Loading plan showing where tradesmen working at the site will park their vehicles (including offsite locations of required) and where loading, unloading and storage of materials will occur on site.
  - A Traffic Control Plan that has been prepared in accordance with the requirements set out in Council's Information Sheet for Traffic Control and has been assessed by Council's Infrastructure Group:
  - Pedestrian Safety Plan;
  - Unexpected Finds Management Plan which covers the possibilities of finding:
    - i. Aboriginal and European artefacts;

- ii. former storage and septic tanks;
- iii. soil impacted from land contamination; and
- iv. presence of hazardous materials such as bonded asbestos.

Please note that the submitted Construction Management Plan may also require a Section 138 Certificate from Council's Infrastructure Group providing consent under Section 138 of the Roads Act 1993 to conduct work on, or for placement of a structure in, a road reserve.

**REASON:** To ensure satisfactory environmental management of the site. (46.07)

5. Prior to the release of the Construction Certificate (Building) a detailed acoustic assessment shall be undertaken by a suitably qualified consultant during the detailed design phase of the development in order to address the following acoustic issues identified in the acoustic review submitted with the application.
  - Design treatments to the building required to ameliorate traffic noise from vehicles travelling to and from the basement parking area including existing independent living units 36 to 40 and proposed units A1 to A5 on the ground level and units D1 – D4, D8 – D11, D13, D15, D17 – D19 on the upper level.
  - Design treatments to the building required to ameliorate traffic noise from Canberra Avenue including units B1, B2, B5, B7 – B10, C 16 and C18 on the ground floor level and units D1 – D7, E1, E4, E21 – E24, E26 and E29 – E32 on the upper floor level.

Any recommendations of the detailed acoustic assessment shall be incorporated into the plans submitted with Construction Certificate for the building.

**REASON:** To ensure that the new aged care facility and increased vehicle manoeuvrability on site does not impact on the amenity of the existing independent living units on site. (46.14)

6. Prior to the release of any Construction Certificate (Building), a detailed landscape plan shall be submitted to and approved by Council. The revised landscape plan shall clearly define:
  - The landscaping areas of concern as indicated by the provisions of the Office of Environment and Heritage General Terms of Approval, the NSW Police Safe Design Guidelines referral and the Roads and Maritime Services referral.

**Note:** A copy of this revised landscaping plan shall also be submitted with the section 60 Application (of the NSW Heritage Act).

**REASON:** To ensure that the interests of the State Government agencies are complied with. (46.14)

7. Prior to the release of any Construction Certificate (Building) a detailed lighting plan for the site shall be submitted to and approved by Council.



**The plans should identify existing lighting to be retained on the site, new external lighting and how compliance with the relevant Australian Standards will be achieved.**

**REASON:** To ensure that an appropriate lighting maintenance policy is established for the site, to ensure compliance with the Safer by Design Guidelines. (46.14)

- 7A. Prior to the issue of the Construction Certificate (Building) a Phase 2 Environmental Site Assessment (ESA) of the potential impacts of cooking oil/grease from the cooking oil storage area and existing triple interceptor trap and soil and groundwater shall be submitted to Council. Any recommendation resulting from the Phase 2 ESA shall be implemented by the applicant.**

**REASON:** To ensure the recommendation of the Environmental Site Assessment (Ref 8264\_EAR\_Phase\_20120719) is adhered to.

#### **PRIOR TO COMMENCEMENT**

- 8. An application under section 60 of the NSW Heritage Act must be submitted and approved by the NSW Heritage Council prior to any work commencing (including demolition works).**

**REASON:** To ensure compliance with the General Terms of Approval issued by NSW Office of Environment and Heritage. (47.11)

- 9. Prior to the commencement of any works on site (including demolition or the removal of any existing landscaping or trees) the Applicant shall nominate for approval, by the Heritage Council or its delegate, an archaeologist who can be on call to assess and record any unexpected archaeological relics or deposits that may be uncovered during excavation work.**

**REASON:** To ensure compliance with the General Terms of Approval issued by the Office of Environment and Heritage. (47.11)

- 10. A sign must be erected in a prominent position on the work site prior to the commencement of any works (including demolition works):**
- a) stating that unauthorised entry to the work site is prohibited,**
  - b) showing the name of the person in charge of the work site, and**
  - c) advising telephone numbers at which that person may be contacted during work hours and outside work hours**
  - d) showing the name of the principal certifying authority and contact details.**

**The sign is to be removed when the work has been completed.**

**REASON:** To provide notification of the work site and site supervisor to the general public in emergency situations. (47.10)

- 11. Building work in accordance with the development consent must not be commenced on site until a Construction Certificate (building) has been issued by Council or an Accredited Certifier.**

**REASON:** To satisfy the relevant statutory requirements. (47.02)

12. **A Notice to Commence Building Works must be submitted to Council two (2) days prior to commencing work and must include details of the nominated Principal Certifying Authority.**

REASON: To ensure the provisions of the *Environmental Planning and Assessment Act 1979* are satisfied. (47.03)

13. **Prior to commencement of any work on site a temporary catch drain or hay barrier line must be provided on the lower side of the development site during construction. The catch drain or hay barrier is to be maintained at all times during construction.**

REASON: To ensure there is minimal disturbance to the landscape and comply with the provisions of the *Protection of the Environment Operations Act, 1997*. (47.14)

14. **Prior to the commencement of building works, a Trade Waste application C4 to dispose of trade waste to the sewer must be submitted to, and approved by, Queanbeyan City Council.**

REASON: To ensure compliance with Section 68 of the Local Government Act 1993, Queanbeyan City Council Policy for Discharge of Liquid Trade Waste into Council's Sewer 2004/05 and to protect Council's Sewerage System. (47.07)

15. **Toilet facilities must be provided at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the work site.**

**Each toilet provided:**

- a) **must be a standard flushing toilet, and**
- b) **must be connected:**
  - (i) **to a public sewer, or**
  - (ii) **if connection to a public sewer is not practicable, to an accredited sewage treatment facility approved by Council, or**
  - (iii) **if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by Council.**

**The provision of toilet facilities in accordance with this clause must be completed prior to commencement of any work on the site.**

REASON: To provide adequate and hygienic amenities for people working on the site. (47.11)

16. **Prior to the commencement of work the Applicant shall prepare and submit a landscape conservation management plan for the separate approval of the Director, Heritage Branch prior to finalising the proposed new landscape works within the SHR boundary. This plan will define the limits of the heritage curtilage and also significant elements within it. The Applicant shall undertake further historic research (documentary and photographic) to inform the following:**

- Historic layout and hierarchy of spaces and edges defined by old maps and survey plans;
- the quality of the major public open spaces;
- significant views to, from or within the area;
- significant planting;
- the heritage significance of individual contributing landscape elements.  
NB: this may include relatively recently installed landscape elements;
- the collective significance of individual landscape elements;
- rankings for the relative heritage significance(s) of individual elements;
- conservation policies to manage the conservation and retention of heritage significance(s) of elements, including any necessary replacement (eg. 'like-for-like' species of plants, materials, etc).

REASON: To ensure compliance with the General Terms of Approval issued by the Office of Environment and Heritage. (47.11)

## **GENERAL CONDITIONS**

### **17. General Terms of Approval – Office of Environment and Heritage**

The Applicant shall ensure that the General Terms of Approval issued in accordance with Section 91A of the Environmental Planning and Assessment Act 1979 are complied with.

**Note:** The General Terms of Approval have been incorporated into this consent and are also reproduced as a complete listing as an attachment to this consent.

REASON: To ensure relevant statutory requirements are satisfied. (22.10)

- 18. The Applicant must ensure that if substantial intact archaeological deposits and/or State significant relics are discovered, work must cease in the affected area(s) and the Heritage Council of NSW or its delegate must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.**

REASON: To ensure compliance with the General Terms of Approval issued by NSW Office of Environment and Heritage. (22.10)

- 19. Should any Aboriginal 'objects' be uncovered by the work, excavation or disturbance of the area is to stop immediately and the Office of Environment and Heritage must be informed in accordance with Section 89A of the National Parks and Wildlife Act, 1974 (as amended). Works affecting Aboriginal 'objects' on the site must not continue until the Office of Environment and Heritage has been informed. Aboriginal 'objects' must be managed in accordance with the National Parks and Wildlife Act, 1974.**

REASON: To ensure compliance with the General Terms of Approval issued by NSW Office of Environment and Heritage. (22.10)

**20. The building permitted under this consent must be constructed using the following external colours and finishes:**

- **External walls consisting of:**
  - Boral brown brick or similar at the base of most external walls as well as feature spandrel panels;
  - Boral choc tan brick, or similar used mainly on the community facility portions of the building;
  - Metal horizontal louvres or similar to plant area. Solid metal cladding to lift and stair overruns. Light grey finish;
  - Fibre cement panel colour as shown or similar used on most of the ground floor between window elements;
  - Timber panels or similar to be used as feature elements generally used on parts of facade set back from building line. Red colour to timber to contrast with neutral tones of the building.
  - Colorbond Bushland mini orb or similar. Used on the first floor as a banding element.
  - Rendered brick as shown or similar. Used on proud building elements in the community portion of the building.
- **Roof Fascia**
  - Light Grey Colorbond colour fascia or similar .

REASON: To ensure the building is not visually obtrusive and that it is compatible with the natural and built environments in the locality. **(22.03)**

**20A. Colours of aluminium louvre screen to the lift overrun and roofing planting area to match the colour of the roof.**

REASON: To ensure the building is not visually obtrusive and that it is compatible with the natural and built environments in the locality. **(59.01)**

**21. The development must be carried out generally in accordance with the application and supporting documents lodged with Council and the Development Plan bearing the Queanbeyan City Council approval stamp, drawn by Hodges Shorten Architects dated 17 February, 18 July 2012, and any amended plans approved under subsequent modification(s) to the development consent, except where varied by notations made in red ink by Council or conditions of approval.**

REASON: To ensure the development is completed in accordance with the approved plans. **(22.01)**

**22. The facilities on the subject site are to be designed and constructed in accordance with the requirements of the State Environmental Planning Policy (Housing for Seniors or Persons with a Disability) 2004 and also relevant portions of the Aged Care Act 1977 (Cth).**

**Compliance with standards for accessibility and useability for the Residential Care Facilities are to satisfy the Commonwealth Aged Care Accreditation Standards to the Building Code of Australia.**

**Use - The use of the facility is to be governed by the requirements of the following:**

**NSW Aged Care**

REASON: To ensure compliance with the SEPP and also the Aged Care Act (Cth) 1977 and ensure accessibility and useability. **(22.10)**

- 23. Repairs to the existing picket fence in the curtilage of the 'Kawaree' dwelling are to be like for like.**

REASON: To ensure compliance with the General Terms of Approval issued by NSW Office of Environment and Heritage. **(22.10)**

**CONTRIBUTIONS**

**24. Building**

**Prior to the lodgement of the Notice to Commence Building and Appointment of a Principal Certifying Authority the contributions specified in Schedule 1 (attached) of this consent are payable to Council in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 and Section 64 of the Local Government Act 1993 and Division 2 of Part 3 of the Water Management Act 2000.**

**NOTE**

- 1. The Queanbeyan Section 94 Contribution Plan and the Water Supply and Sewerage Developer Servicing Plans may be inspected at Council's Sustainability and Better Living Division, Council Chambers Queanbeyan.***
- 2. The contribution rates specified in Schedule 1 are those that apply at the date of issue of this consent. Rates are reviewed quarterly. Contributions will only be accepted at the rate applying at the date of payment. Council's Sustainability and Better Living Division should be contacted to receive a current contribution notice of charges prior to payment.***

REASON: To provide for the funding of augmentation and provision of services and community facilities. **(23.01A)**

**SITE MANAGEMENT**

- 25. Any works associated with the construction and/or establishment of this development must ONLY be carried out between the following hours:**

<b>Weekdays:</b>	<b>7.00am to 6.00pm</b>
<b>Saturday</b>	<b>8.00am to 4.00pm</b>
<b>Sunday/Public Holidays</b>	<b>No Work permitted</b>

***Note: To undertake works involving the use of equipment which creates an offensive noise is a breach of the provisions of the Protection of the Environment Operations Act 1997 and Regulations thereunder.***

REASON: To ensure a noise problem does not result from the development and the impact on the local amenity is minimised. (26.07)

26. **The footway or nature strip must not be used for storage of materials or disturbed by construction activities except for:**
- (a) providing a temporary footway crossing;
  - (a) access to the site via a stabilised construction access only;
  - (b) installation of services;
  - (c) essential formation and regrading of the site associated with works; and
  - (d) the storage or disposal of any materials is prohibited.

REASON: To prevent unnecessary disturbance to the footway and minimise trafficking of soil onto the roadway. (26.09)

27. **In the event of any damage being caused to any existing kerb, guttering, stormwater pit, footpath trees and/or footpath during building operation, the applicant must repair or reimburse Council for the full cost of restoration.**

REASON: To prevent damage to Council's public footway area and require payment to Council where damage occurs. (26.10)

## **BUILDING**

28. **All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.**

REASON: To ensure all building work is carried out in accordance with legislative requirements. (24.01)

29. **All excavations, backfilling and other activities associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.**

REASON: To ensure that all construction activity associated with the development does not pose a hazard to life or property. (24.04)

30. **All demolition works must:-**

- be carried out within the allotment boundaries;
- not extend onto the public places, or adjoining properties;
- comply with the requirements of AS2601-2001 – Demolition of Structures.

REASON: To ensure the safety of workers, persons using the public place areas and adjoining properties. (24.09)

31. **Receptacles for demolition material must not be located in a public place without the prior approval of Council.**

REASON: To ensure that public places and road reserves are not obstructed during demolition works. (24.14)

32. **The building must be set out by a Registered Surveyor referring to the datum shown on the approved plans. A survey plan that identifies the location of the building in relation to the allotment boundaries must be**

**prepared upon completion of the base course brickwork and then be submitted to the Principal Certifying Authority (PCA). Where Council is not the PCA, a copy of the survey plan must be forwarded to Council.**

**REASON:** To ensure building has been sited in accordance with the approved plans. **(24.21)**

## **FIRE SAFETY MEASURES**

- 33. At the completion of works, a Final Fire Safety Certificate is to be issued by the owner detailing each essential fire safety measure provided in the building. A copy of such certificate is to be forwarded to the Fire Commissioner and a further copy is to be prominently displayed in the building.**

**REASON:** To ensure compliance with the Environmental Planning and Assessment Regulation 2000. **(29.30)**

- 34. Each year, the owner of the building must furnish to Council an annual fire safety statement for the building. The annual fire safety statement is to address each essential fire safety measure in the building.**

**REASON:** To ensure compliance with the Environmental Planning and Assessment Regulation 2000. **(29.31)**

## **CARPARKING AND ACCESS**

- 35. The development must include the reconstruction of the existing driveway in Canberra Avenue at the eastern end of the subject property as an industrial type driveway over Council's footway at the location shown on the approved plans. The driveway must be:**

- (a) constructed by Council or its approved contractors only, at no cost to the Council, and**
- (a) constructed using 180mm thick reinforced concrete with a layer of F72 mesh with 50 top cover or clay sediment pavers; and**
- (b) constructed with a 4% grade falling to the gutter; and**
- (c) a minimum distance of one metre away from any electrical, Telstra, post box installation, other service or tree within the footway area.**

REASON: To ensure the construction of the driveway on public lands meets Council's requirements. **(27.02)**

- 36. At least one parking space shall be reserved for use by ambulance vehicles.**

REASON: To facilitate servicing by ambulance vehicles. **(27.14)**

- 37. All parking spaces, driveways and turning aisles must be concrete or bitumen sealed, with all parking spaces line marked prior to the occupation of the building.**

**Resident / visitor / staff spaces are to conform with the requirements of AS/NZS 2890.1:2004 – Parking facilities, Part 1: Off-street car parking.**

**At least two parking spaces are to be designated for use by disabled persons conforming to the requirements of AS/NZS 2890.6:2009 – Parking facilities, Part 6: Off-street parking for people with disabilities.**

**Loading bay parking and manoeuvring areas must comply with the requirements of AS 2890.2-2002 – Parking facilities, Part 2: Off-street commercial vehicle facilities.**

REASON: To provide adequate off street carparking and access, to ensure carparking spaces are functional prior to use of the premises. **(27.15)**

- 38. Only two accesses to Canberra Avenue shall be permitted (one combined ingress/egress for general use and one for waste collection only). The eastern driveway access shall be restricted to use by waste collection vehicles only, with a maximum length of 9.9m.**

REASON: To comply with the requirements of Roads and Maritime Services. **(27.14)**



- 38A. Waste disposal vehicles accessing the eastern driveway of the site are to be rear loading only. Waste disposal vehicles are to enter and exit from the eastern access in a forward direction as shown in Cardno letter dated 14 March 2017 (Ref. 80017066).**

REASON: To ensure waste disposal vehicles safely enter and exit the site. (76.01)

- 39. The driveways shall be designed in accordance with Council standards.**

REASON: To comply with the requirements of the Roads and Maritime Services. (27.14)

- 40. Landscaping and fencing at the property frontage shall not restrict sight lines to Canberra Avenue. In this regard, the proponent shall undertake necessary works to achieve Safe Intersection Sight Distance at the accesses (i.e. any required vegetation and removal of the existing fence), in accordance with Austroads standards (see Austroads Guide to Road Design – Part 4a Unsignalised and Signalised Intersections Table 3.2, i.e. 114m to the west for a design speed of 60km/h.**

**Photographs to demonstrate that these works have been completed shall be referred to RMS for acceptance prior to occupation certificate being issued.**

REASON: To comply with the requirements of the Roads and Maritime Services. (27.14)

- 41. The eastern access driveway shall be clearly marked with suitable ‘Left Turn Only’ / ‘No Right Turn’ signposting and pavement marking (arrow) on the driveway to indicate direction flow to waste collection vehicle drivers.**

REASON: To comply with the requirements of the Roads and Maritime Services. (27.14)

- 42. Post development storm water discharge from the subject site must not exceed pre-development flows onto the classified road network.**

REASON: To comply with the requirements of the Roads and Maritime Services. (27.14)

- 43. All road works will be at no cost to Roads and Maritime Services. All works shall be completed prior to occupation.**

REASON: To comply with the requirements of Roads and Maritime Services. (27.14)

- 44. The development shall apply for, and obtain a Road Occupancy Licence (ROL) from the Roads and Maritime Services (RMS) Traffic Operations**

Unit (TOU) prior to commencing works that impact a travel lane of a State Road or impact the operation of traffic signals on any road. The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Speed Zone Authorisation will also be required from the TOU. The developer shall submit the ROL application 10 business days prior to commencing work. It should be noted that receiving an approval for the ROL within this 10 business day period is dependent upon RMS receiving an accurate and compliant TMP.

REASON: To comply with the requirements of Roads and Maritime Services. (27.14)

## **LANDSCAPING**

45. All landscaping must be completed by a Council accredited Category 2 landscape contractor in accordance with Development Control Plan No 42 – Landscape Policy and the approved landscape plan designed by HLS Pty Ltd dated 17 February 2012 and bearing the Queanbeyan City Council approval stamp and any subsequent revised landscape plans approved by Council.

A “Statement of Completed Landscaped Works” form signed by the registered designer must be submitted to Council’s Sustainability and Better Living Department prior to the issue of any Occupation Certificate.

The landscaping must be maintained in good condition and in accordance with the plan at all times.

*Note 1: Details on how to become a Council accredited landscape consultant/contractor are available on Council’s web site ( [www.qcc.nsw.gov.au](http://www.qcc.nsw.gov.au) ) or from Council’s Sustainability and Better Living section.*

*Note 2: A copy of the “Statement of Completed Landscape Works” is to be sent to the Principal Certifying Authority.*

REASON: To help ensure that good and sustainable landscaping is achieved. (28.01A)

46. Trees nominated to be retained on the approved plan must be protected by cyclone/chain mesh fence as shown in red on the approved plan. Such fence must:
- (a) extend around the drip line of the tree
  - (b) be erected prior to commencement of work; and
  - (c) remain in place until a Certificate of Occupation has been issued on the development.

REASON: To offer protection to the trees including the extent of root system from inadvertent damage during construction stage. (28.08)

## **ENVIRONMENTAL**

47. Hair dressing and beauty facility must be constructed and fitted out to comply with the requirements of the Part 2 Schedule 2 of the Local Government (General) Regulations 2005. Should any skin penetration be undertaken then the Public Health (Skin Penetration) Regulation 2000 must be complied with.

- (a) The floor, benches, shelves, fittings and furniture are to be constructed of smooth impervious materials capable of being kept clean and in good repair.
- (b) A hand basin with hot and cold running water supplied through a single outlet, plus liquid soap or detergent and single use towels. This basin is to be used exclusively for hand washing. Equipment and utensils are to be cleaned in a separate sink.
- (c) The wall surrounding the hand wash basin (from floor level to a height of 450 millimetres above the top of the wash basin and from the centre of the wash basin to a distance of 150 millimetres beyond each side of the wash basin) shall be constructed of, or covered with, material that is durable, smooth, impervious to moisture and capable of being easily cleaned.

REASON : To comply with the appropriate legislative requirements. (30.32)

48. The applicant must ensure that noise generated by the development does not exceed the criteria set by the New South Wales Office of Environment and Heritage (OEHL). This is generally a level of 5dB above background noise level.

This is measured by monitoring the level of noise from any activity within the development represented by the  $L_{aeq}$  descriptor, measured over a 15 minute period. This measurement must not exceed the background level at that time of day by more than 5dB.

This includes noise generated as a result of the operation of plant and equipment on site.

REASON: To minimise the impact of noise generated by the development on surrounding residential areas. (30.05)

49. Provisions must be made for the waste storage room and bins to be adequately cleaned. The waste storage room shall be constructed and provided with the following requirements:

- The waste storage room shall be provided with adequate ventilation either naturally or by mechanical ventilation;
- The floor, walls and ceiling are to be constructed and suitably finished with impervious materials;
- The floor is to be graded and drained to sewer to dispose of waste water appropriately. The drain shall be fitted with a basket arrestor to prevent solid matter from entering the sewer;
- A stop cock shall be provided to facilitate good cleaning practices. A back flow prevention device is to be fitted to each stop cock to protect the potable water supply.

REASON: To ensure the construction and location is satisfactory. (30.40)

- 50. Any asbestos cement material found on the site must be removed and disposed of in accordance with the Work Health and Safety Act 2011 and the NSW WorkCover guidelines. Asbestos material over 10m<sup>2</sup> must be removed by a licensed asbestos removalist.**

**Asbestos material must be disposed of to a landfill site approved for that purpose by the Environmental Protection Authority of New South Wales or equivalent authority in the Australian Capital Territory. Written evidence that the material has been disposed of to the approved landfill must be submitted to Council.**

**The applicant is advised that asbestos is a hazardous material/waste and as such special requirements relate to the documentation and licensing relating to transport. If the material is proposed to be disposed of within the Australian Capital Territory, the applicant should contact Environment ACT and the ACT Landfill section prior to utilising these facilities.**

**REASON: To ensure the proper disposal of hazardous asbestos material. (30.38)**

- 51. The Owner and Manager of the site shall design and distribute a flyer or pamphlet to all new residents and staff of the building advising them of the waste disposal arrangements in place for the development. Appropriate signage must be designed and provided in the waste area advising residents of materials which can be collected in the bins. In addition, appropriate signage must be placed on the external doors of waste storage areas identifying their location. Council's Waste Officer would be pleased to provide advice in relation to this condition.**

**REASON: To provide information to residents of the building and reduce the level of contamination found in the waste bins. (30.39)**

- 51A. Medical Waste generated on site shall only be collected by an appropriately qualified waste contractor and taken to a disposal facility licensed for that purpose.**

**REASON: To ensure hazardous waste materials are appropriately handled and disposed.**

- 51B. Any excess fill material excavated from the site shall be disposed of to a properly authorised disposal site. Council may require the applicant to produce evidence of the location to which excavated material was taken.**

**REASON: To ensure fill material is disposed of to an appropriate location.**

## **FOOD**

- 52. Food preparation, sale and storage areas must be constructed and fitted out to comply with the requirements of the Food Act 2003 and Regulations 2010, Standard 3.2.3 of the Australian and New Zealand Food Standards Code. A copy of the fitout plans for the following areas shall be submitted to Council prior to construction of these areas:**

- Main Kitchen**

- Café food preparation area
- Bar in Basement
- Coolroom and Freezer Room.

REASON: To ensure safe hygienic food preparation/storage and compliance with Food Act 2003 and Regulations 2010, Food Safety Standards. (32.02)

53. Prior to the commencement of food handling operations of any unlicensed food business the food business proprietor must notify the NSW Food Authority of the following information, including:
- a) Contact details for the food business including:
    - (i) the name and address of the business and
    - (ii) the proprietor of the business.
  - b) The nature of the food business.

You may notify the NSW Food Authority for free via the internet on [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au) or by contacting Council for a paper notification form.

The food business proprietor of any unlicensed food premises is also required to complete a Queanbeyan City Council “*Food Registration form*” and submit it to Council to enable correct information to be entered on Councils Food premises database.

REASON: To ensure that the fit out of the food premises complies with the relevant standards and to enable correct information to be gathered on the Food Premises so as to maintain the list of food business that Council is required to maintain as per section 106 of the Food Act 2003. (32.07)

## **SAFE DESIGN**

54. All external lighting must be vandal resistant and must comply with the Australian Standards Specifications, Australian Standard AS1158 – Public Lighting Code.

REASON: To ensure the location and type of lighting promotes user safety and does not produce areas of glare and/or dark shadows. (40.02)

55. Adequate lighting is to be provided for the entrances of each unit. Any lighting provided in the development must not produce areas of dark shadow or glare. The following design suggestions are to be incorporated in the provision of lighting for the site.
- Use diffused lights and/or movement sensitive lights.
  - Direct these lights towards access/egress routes to illuminate potential offenders, rather than towards buildings or resident observation points.
  - Lighting should have a wide beam of illumination, which reaches to the beam of the next light, or the perimeter of the site or area being traversed.
  - Avoid lighting spillage onto neighbouring properties as this can cause nuisance and reduce opportunities for natural surveillance.

- As a guide areas should be lit to enable users to identify a face 15 metres away.
- Illuminate possible places for intruders to hide.
- Use energy efficient lamps/fittings/switches to save energy.

REASON: To ensure that the entries to the development are clearly visible for the residents and their visitors and to promote the safety of the development. (40.05)

56. Entry to the basement car parking shall be restricted by the installation of suitable security gates and/or doors that do not impact on vehicle manoeuvrability or the egress of persons.

REASON: To limit the entrance into the building by unauthorised persons. (40.07)

- 56A. Basement areas above ground level that are not enclosed by solid walls must be secured by the installation of metal mesh or similar.

REASON: To limit entrance into the building by unauthorised persons.

## ENVIRONMENTAL RISKS

57. Temporary vehicle access to the site must be stabilised to prevent the tracking of sediment onto the roads and footpath. Soil, earth, mud or similar materials must be removed from the roadway by sweeping, shovelling, or a means other than washing, on a daily basis or as required. Soil washings from wheels must be collected and disposed of in a manner that does not pollute waters.

REASON: To minimise transfer of soil from the site onto the road pavement. (49.04)

## CONDITIONS TO BE SATISFIED BEFORE OCCUPATION OF THE BUILDING

58. An Occupation Certificate must be obtained from a Principal Certifying Authority before occupation or use of the building. The final Occupation Certificate will not be issued until the development has been completed in accordance with this consent.

REASON: To comply with Section 109M of the Environmental Planning and Assessment Act 1979. (42.01)

59. Consolidation of Lot A, DP 33538; Lot 2, DP739287 and Lot 1, DP774149 known as 111 Campbell Street, 50 Canberra Avenue and 18 George Street, Queanbeyan shall be undertaken prior to release of any Occupation Certificate. Documentary evidence shall be submitted to Council of the registration with the NSW Land and Property Information.

REASON: To ensure the development remains on one title to avoid future problems from multiple titles over the land. (42.16)

60. **Washing down of vehicles within the allotment boundaries of this site is prohibited. Signs shall be posted in the parking areas advising tenants and visitors of such prohibition prior to the issue of the Occupation Certificate.**

REASON: To conserve water and minimise the potential for water pollution. (42.17)

61. **An Occupation Certificate for the development shall not be issued until a certificate of compliance in accordance with Section 307 of the Water Management Act 2000 is obtained from the Water and Sewer Authority (Queanbeyan City Council).**

REASON: To ensure the development is adequately serviced prior to its occupation. (42.04)

62. **A covenant, in accordance with Section 88E of the Conveyancing Act 1919 is to be prepared, at no cost to Council and the applicant is to ensure that the beneficial owner and titleholder of the site enters into the covenant to ensure that the development is used only by those persons eligible under SEPP Housing for Seniors or People with a Disability 2004 for the purposes of an aged care facility only.**

REASON: To ensure the compliance with SEPP Housing for Seniors or People with a Disability 2004. (42.07)

63. **Photographs to demonstrate that the works required by condition 40 of this consent have been completed, shall be referred to RMS for acceptance prior to occupation certificate being issued.**

REASON: To comply with the requirements of the Roads and Maritime Services. (27.14)

**OTHER APPROVALS** (Section 78A(5) Environmental Planning & Assessment Act 1979 as amended):

*Section 68 Local Government Act 1993*

**CARRY OUT WORK TO WATER, METER, DRAINAGE, SEWER,**

#### **PLUMBING AND DRAINAGE**

64. **All new hot water installations for facilities must deliver hot water at the outlet of all sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding 43.5° Celsius.**

REASON: To prevent scalding. (35. 12)

65. **The development must be carried out in accordance with the requirements of the Local Government (General) Regulations 2005, AS 3500 Plumbing and Drainage Code and the New South Wales Code of Practice – Plumbing and Drainage, with such works performed by a person licensed by the NSW Department of Fair Trading.**

REASON: To ensure compliance with the Local Government (General) Regulation 2005. (35.01)

- 66. Plumbing and Drainage must be inspected by Queanbeyan City Council at the relevant stages of construction in accordance with Council's inspection schedule.**

REASON: To ensure compliance with AS 3500 Plumbing and Drainage and Council's inspection schedule. (35.02)

- 67. The floor level of areas with fixtures connected to sewer must be at least 150mm above overflow level of yard gully.**

*Note: Surface water must be prevented from gaining access to yard gully.*

REASON: To ensure any sewer surcharge occurs outside the building. (35.08)

- 68. All new hot water installations for disabled facilities must deliver hot water at the outlet of all sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding 43.5° Celsius.**

REASON: To prevent scalding. (35.12)

- 69. Due to local climatic conditions, hot and cold water supply piping installed in the following areas of the building must be surrounded by an appropriate thickness of insulation, as prescribed by AS 3500, Plumbing and Drainage:**

- (a) unheated roof spaces;
- (a) unheated cellars;
- (b) locations near windows, ventilators or external doors where cold draughts are likely to occur;
- (c) locations in contact with cold surfaces such as metal roof, metal framework, or external metal cladding materials.

REASON: To prevent the water service being damaged by water freezing within the pipes. (35.21)

## **NOTES**

**Electronic Surveillance equipment is recommended to be installed. Cameras could cover car parks and main entry points. (43.06)**

**A landscaping maintenance policy should be established for the development. (43.06)**

**A number of proposed trees are close to courtyard areas and fence lines. These should be well maintained to ensure no concealment opportunities exist and that they do not provide a natural ladder for criminals to gain access to windows and roof lines. (43.06)**

**Consider the use of sensor lighting along external wall lines and areas of lesser movement. (43.06)**

**A lighting maintenance policy should be established for the development.**

**Entries should be clearly signposted. Signs should clearly indicate the use of the site both within the site and at entry points. (43.06)**



Secure access doors should be in a place on all main external entry points, similar to those found in residential blocks. (43.06)

The security doors should restrict access from the upper levels of the building to the basement and vice versa. (43.06)

A graffiti management plan and maintenance policy should be established for the development. (43.06)

The main entry/exit points for the development should be fitted with single cylinder locksets which comply with the Building Code of Australia. (43.06)

Windows should be fitted with key operated locksets. (43.06)

The main entry and exit points within the building should contain access control for visitors to limit entry during hours of darkness. (43.06)

If re-development works are undertaken in the proximity of 'Kawaree' and odorous or visually impacted soils (possibly associated with a former septic system) are observed, then further assessment of soils should be undertaken.

## **NOTE**

### **Modification Details 100-2012A**

The modification 100-2012/A issued by Council on 13 NOVEMBER 2013 included the following amendments to the approval:

- 1) Reduction in the size of the basement and reconfiguration of basement car parking area and rooms;
- 2) Reconfiguration of the ground and first floors;
- 3) Slight alterations to facades to reflect internal changes; and
- 4) Changes to landscaping to reflect the basement changes.

The following changes to conditions were made:

- 1) Conditions 2, 5, 21 and 56 amended; and

- 2) New condition 56A imposed to require the areas of the basement car parking area to be secured by metal mesh or similar. (43.08)

## **NOTE**

### **DETAILS OF MODIFICATION 100-2012/B**

The modification issued by the Joint Regional Planning Panel – Southern Region on 28 July 2017 included the following amendments to the development consent and approved plan(s):

- 1) Relocation or removal of the majority of the roof level plantrooms/structures, with one central plant area to remain.
- 2) Replacement of the flat concrete roof with a low pitched metal roof, including removal of parapets and replacement with eaves.
- 3) A general reduction in the perceived height of the building following removal of the parapet and plant rooms.
- 4) Amendment to the ground and ceiling level of the First Floor of the building, being a 200mm increase in the floor level and 100mm decrease in the ceiling level.
- 5) Reduction of 329m<sup>2</sup> in the excavated part of the basement resulting from a rationalisation of functions, including reconfiguration of carparking and fire stairs.
- 6) Internal changes at the Ground and First Floor levels relating to the reconfiguration of functions and rooms and minor change to the building footprint at such levels. This will result in an increase in the number of one bed rooms at the First Floor (up from 66 to 73) and a reduction in the number of one bed rooms at the Ground Floor (down from 59 to 52), with the total number of bedrooms being unchanged at 125.
- 7) Inclusion and relocation of balconies off the resident sitting areas on the northern and southern facades of the building.
- 8) Alteration of sunshade elements on the facades of the building to smaller bay window elements.
- 9) Rearrangement of façade materials, including introduction of weatherboard to replace some flat panel elements.

The following changes to conditions were made:

- a) Conditions 2, 5 and 21 amended; and
- b) New conditions 20A and 38A imposed. (81.02)