

COUNCIL ASSESSMENT SUPPLEMENTARY REPORT

**JOINT REGIONAL PLANNING PANEL
(SOUTHERN REGION)
SUPPLEMENTARY COUNCIL ASSESSMENT REPORT 2**

Panel Reference	2017STH018
DA Number	RA17/1001
LGA	Shoalhaven City Council
Proposed Development	<p>Demolition and vegetation removal work and staged construction of a Senior Housing development comprising:</p> <ul style="list-style-type: none"> • 89 Bed Residential Care Facility (RCF) • 126 Independent living Units (ILU) (duplex and triplex forms) • 133 ILU spread over 7 x 3 storey residential flat buildings with underground car parking, • Community Centre comprising clubhouse/restaurant/medical centre/gym and swimming pool • ancillary civil infrastructure and landscaping <p>Roundabout intersection and associated civil works on Princes Highway and surrounding road reserves</p>
Street Address	<p>Lot 1 DP 780801, 276 Princes Highway, Milton Lot 1 DP 737576, Part Road Reserve Princes Highway, Milton DP U3 2224 Property ID81992, Part Road Reserve Princes Highway, Milton DP R63051603 Property ID 81999, & Part Crown Road Reserve Warden Road, Milton – Property ID 81997</p>
Applicant/Owner	Hawes & Swan Planning on behalf of Annsca Property Group/Meadows of Milton Pty Ltd
Date of DA lodgement	23 May 2017
Number of Submissions	52 opposing & 10 in support
Recommendation	Approved with conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Development with a Capital Investment Value (CIV) of more than \$30 million
List of all relevant s4.15(1)(a) matters	<p>Statutory Provisions</p> <ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • Environmental Planning and Assessment Regulation 2000 • Threatened Species Conservation Act 1995 • Rural Fires Act 1997 • SEPP No. 55 – Remediation of Land • SEPP No. 65 - Design Quality of Residential Apartment Development • SEPP (Housing for Seniors or People with a Disability) 2004 • SEPP (Infrastructure) 2007

	<ul style="list-style-type: none"> • SEPP (State and Regional Development) 2011 • Shoalhaven Local Environmental Plan (LEP) 2014
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • (D20/391551) Addendum Planning Report (SEE) • (D20/368805) Acoustic Report – Koikas Acoustics Pty Ltd • (D20/367604) Flora & Fauna Assessment Addendum – Cumberland Ecology • (D20/368796) Access Report – Sydney Access Consultants • (D20/368799) Access Footpath SK100 - Sydney Access Consultants • (D20/391513) Legal Opinion – Storey and Gough Lawyers • (D20/391581) Site Plans DA05-DA07 – Stephen Jones & Assoc • (D20/391637) Staging Plan DA55 – Stephen Jones & Assoc • (D20/391625) Revised Apartment Plans DA48-DA53 & DA56 – Stephen Jones & Assoc • (D20/391610) Revised Apartment Sections DA43-DA45 & Perspectives DA46-DA47, Floor Plans DA37-DA42 – Stephen Jones & Assoc • (D20/391590) Revised Clubhouse Plans DA11-DA18 – Stephen Jones & Assoc • (D20/391586) Revised Site Section Plans DA08-DA10 – Stephen Jones & Assoc • (D20/391489) Revised Landscape Plans – Zenith Landscape Designs • (D20/391504) Roundabout & Associated Civil Designs – Footprint Engineering • (D20/418936) RFS Bush Fire Safety Authority • (D20/419193) Revision to the recommended conditions
Report prepared by	Peter Johnston, Senior Development Planner
Report date	6 October 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes**Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not Applicable**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Not Applicable

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

No

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Executive Summary Addendum**Main issues**Bushfire

On 19 May 2020, the RFS issued general terms of approval and a Bush Fire Safety Authority under s100B of the Rural Fires Act (1997) (D20/418936) for the seniors housing development. The draft conditions of consent have subsequently been revised to remove references to deferred commencement as this process of activation is no longer applicable.

RECOMMENDATION

Accordingly, it is recommended that the Southern Regional Planning Panel, as the determining authority, approved this application with conditions for the reasons detailed within the recommendation section of this report.

SUPPLEMENTARY ASSESSMENT REPORT WHICH PROVIDES:

1. Reports analysing the acoustic and visual impact of the operation of the proposed roundabout, and associated land forming and vegetation removal on residences on the south side of the Princes Hwy, and options to mitigate those impacts

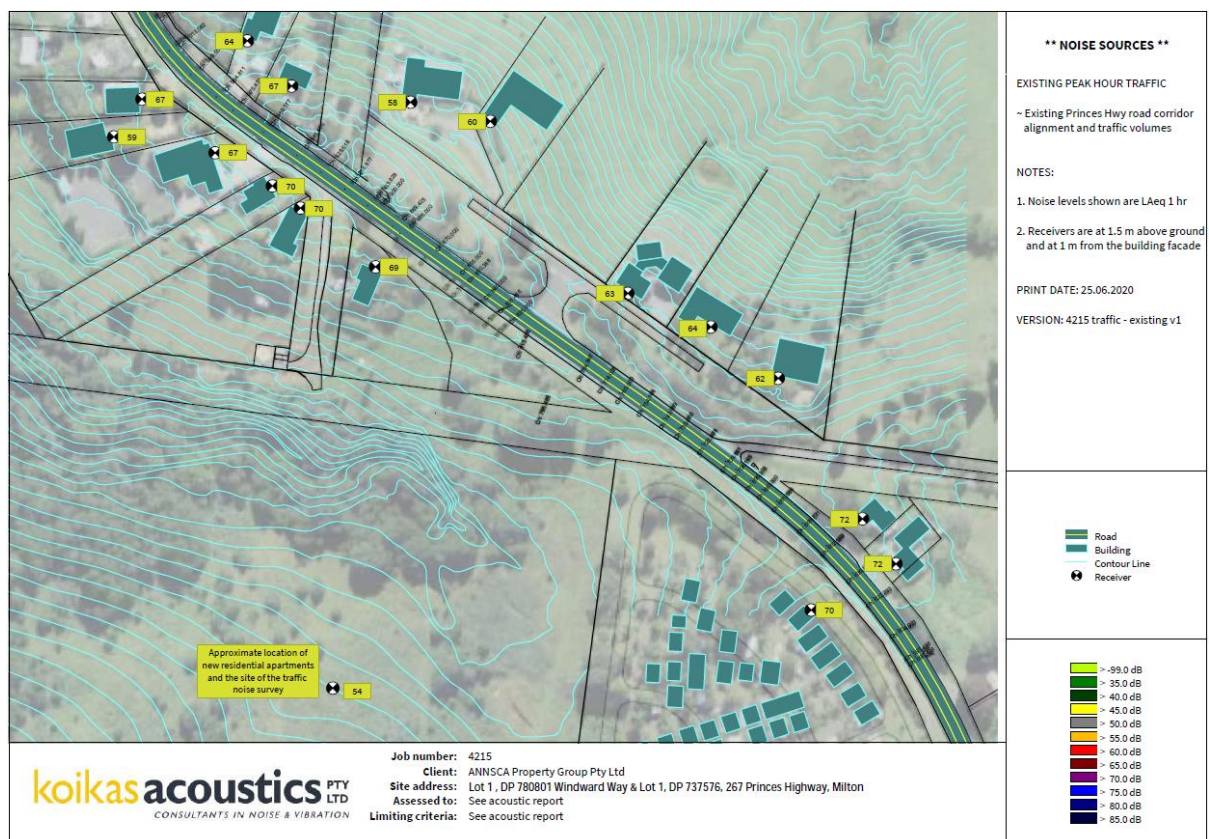
Roundabout Noise Impact Assessment

A Traffic Impact Noise Assessment was submitted by Koikas Acoustics Pty Ltd (D20/368805) dated, 1 July 2020 which reviewed the potential noise impact of the proposed roundabout intersection on surrounding premises within the Princes Highway corridor. The report was reviewed by Council Environmental Health officers who concurred with the assumptions and recommendations.

The report clarified that as the Princes Highway corridor at the subject location carried an annual daily traffic volume less than 20,000 vehicles the provisions of clause 102 of the ISEPP do not apply. Detailed discussion on this point is provided below under point 3b.

Noise objectives for road redevelopment and new traffic generating land use development are provided in the New South Wales Environmental Protection Authority Road Noise Policy (RNP). The RNP recommends adopting the following noise objectives:

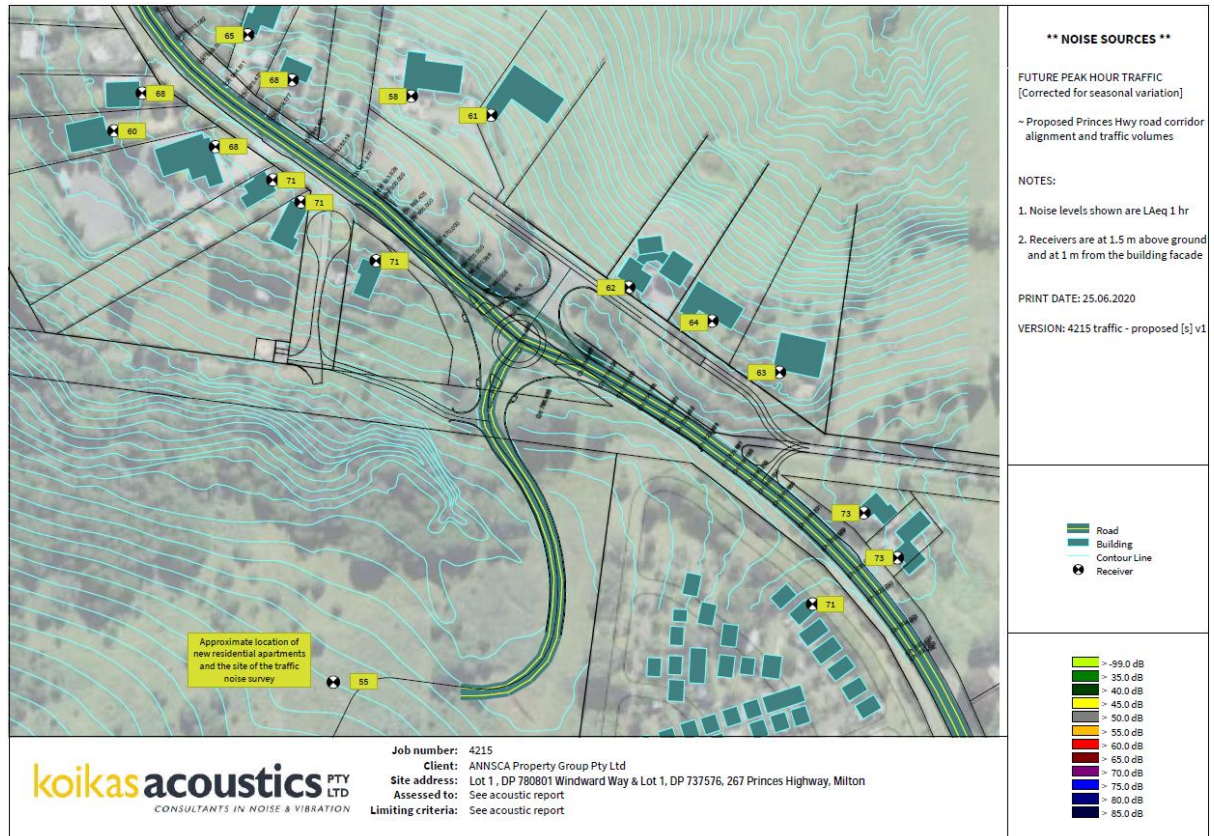
- L_{Aeq} (15 hours) 60 dB (external) during the day, being 7am to 10pm
- L_{Aeq} (9 hours) 55 dB (external) during the night, being 10pm to 7am



Existing Peak Hour Traffic Noise Levels

The noise report found that existing traffic noise generated from Princes Highway already exceeded the 60 dB and 55 dB criteria levels for properties in the highway corridor and as such the report aimed to demonstrate that the proposed development would not result in a significant increase in traffic noise exposure for existing residents. The RNP states that an increase of two decibels represents a minor impact that is considered barely perceptible.

Therefore, a maximum 2 decibel increase was used as the basis for determining an acceptable design outcome for surrounding residents.



Modelled Peak Hour Traffic Noise Levels Corrected for Seasonal Variation

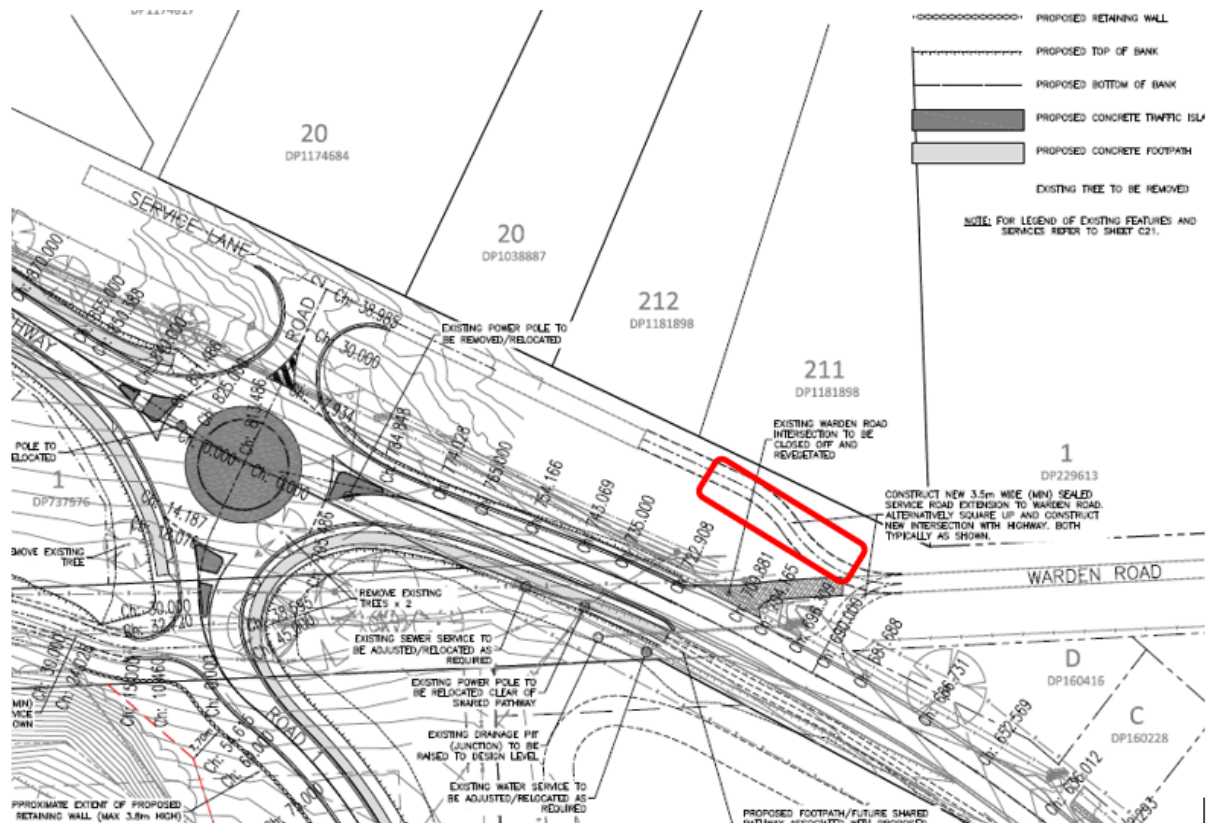
The assessment found that the proposed new roundabout and associated road works would generally result in a traffic noise level 1 dB higher than existing background noise. The maximum identified increase was found to be 2 decibels at one location identified as 267 Princes Highway which is a dwelling associated with the seniors housing development and is scheduled for demolition by the developer.

In accordance with the RNP guidance these results clarify that the proposed roundabout works do not reach the threshold for a minor impact and will be barely perceptible for surrounding residents. Given this modelled forecast, there is no justification for the provision of acoustic barrier fences or attenuation works to be provided by the developer in the highway corridor.

Roundabout Visual Impacts

Proponent

Based on the roundabout and associated road works, trees will be removed as detailed in the engineering drawings prepared by footprint engineering, however those trees are layered and the remaining trees will maintain that visual buffer for the properties that gain access from the proposed service lane north.



Area of proposed vegetation impact (red box)



Area of proposed vegetation impact (red box)

Comment

The proposed connection of Warden Rd North to the North access lane will leave a buffer strip of vegetation screening the adjacent dwellings from view of the highway except for the connection point with Warden Road adjacent (236 Princes Highway).



It is recommended that landscaping be provided (Yellow boxed area) by the developer to extend and augment the existing vegetation screen across the closed Warden Road highway intersection to the western boundary of 256 Princes Highway. This would provide screening and reduce the impact of vehicle headlight amenity impacts at night.

Roundabout Vegetation Removal Impacts

Proponent

The only alteration on the northern side of the existing Princes Highway envelope is the extension of the existing access laneway to intersect with the eastern end of Warden Road so that all residents can safely access the Princes Highway through the roundabout. This is a condition of the roundabout approval issued by the RMS. The extension of the laneway will require the removal of a strip of vegetation comprising of approximately 180m², most of that is along the southern boundary of Lot 211, DPI181898.

Comment

Cumberland Ecology submitted a comprehensive Flora and Fauna Assessment (FFA) report dated, 2 July 2020 (**D20/368901**) addressing the biodiversity values of a stretch of vegetation which is to be impacted by the proposed diversion of Warden Road.

The FFA was referred to Council's Environmental Planning and Assessment Officer for review with the following comments provided:

Cumberland Ecology have prepared a comprehensive FFA including;

- Updated desktop research and database searches;
- A site assessment undertaken on 2nd July 2020 including targeted survey for the threatened plant *Rhodamnia rubescens*, as well as general flora and fauna habitat assessment;
- Likelihood of occurrence assessments for threatened species records within 10m of the Subject Site;
- Assessments of Significance for threatened fauna species, Grey-headed Flying Fox, Large Bent-wing Bat and Eastern Free-tail Bat.

Targeted threatened fauna assessments were not conducted as these have been conducted on the nearby Milton Meadows site to the south within the same vegetation community classification. As such the addendum FFA referred to this previous data to inform this assessment.

The FFA has been assessed against the now repealed NSW TSC Act. Reasonable justification is given for this in the FFA.

Key findings of the Addendum FFA

The FFA classified 2 vegetation communities, Planted Natives/Exotics and Weeds as well as Exotic Grassland. Due to previous disturbance, including clearing and subsequent revegetation of the majority of the site, there is no remnant native vegetation present. The site is assessed as not providing any threatened flora species habitat and sub-optimal foraging habitat for the 3 threatened fauna species assessed in Appendix D - Assessments of Significance. The Assessment of Significance finds the proposal will not have a significant impact on any threatened fauna species. No further assessment is recommended.

FFA Review

This FFA conducted by Cumberland Ecology (August 2020) has been reviewed against a desktop assessment including Councils GIS vegetation mapping and threatened flora and fauna species records. Recommended conditions of consent from previous environmental referral advice for RA17/1001 has also been reviewed

to ensure recommended mitigations cover the proposed vegetation removal within the road reserve.

Council concurs with the justification given in the FFA for assessing this additional portion of the proposal under the TSC Act as it is understood this is part of the assessment process for a DA that was lodged prior to the BC Act coming into effect.

The methodology and survey effort employed by Cumberland Ecology is adequate given the FFA referred to data from previous nearby surveys for the same proposal. The disturbed and fragmented condition of the site also limits the habitat potential for many threatened flora and fauna species. As such further detailed targeted surveys are not required.

Council concurs with the conclusion that the proposed Warden Road diversion will not cause significant impact for any threatened fauna species.

Recommended Conditions

Recommended conditions from the 4th Environmental Referral advice (D20/88496) will also apply to retained native vegetation adjacent to Warden Road. Further recommended conditions are;

Prior to the issue of a Construction Certificate;

- Final design of the Warden Road diversion and future roundabout to be built primarily within/adjacent to 1 DP 737576 must minimise the removal of native vegetation wherever possible. Although this patch of native vegetation is disturbed, it represents a stepping-stone within a fragmented landscape allowing dispersal and foraging resources for a range of native fauna species.
- The Milton Meadows Ulladulla Vegetation Management Plan Cumberland Ecology (2019) must be revised to include weed control only, within the additional APZ area within Lot 3 DP785757, 65 Wilfords Lane as well as retained native vegetation adjacent to the diversion of Warden Road.

Roundabout Land Forming Impacts

Proponent

The additional width required by the proposed roundabout has been located within the western portion of the Warden Road reserve and in land area that forms part of this DA. The proposed road alignment of the Princes Highway does not encroach beyond the existing northern envelope of the Princes Highway road reserve.

Comment

The proposed roundabout design has been carefully considered to minimise land forming impacts on the north side of the highway and hence reduced the impact on existing vegetation screen provided between the highway and the north service lane (identified as road (2) on the footprint design plans) . Existing Levels for the highway are very close to the proposed design levels for the roundabout north which further minimises land forming impacts.

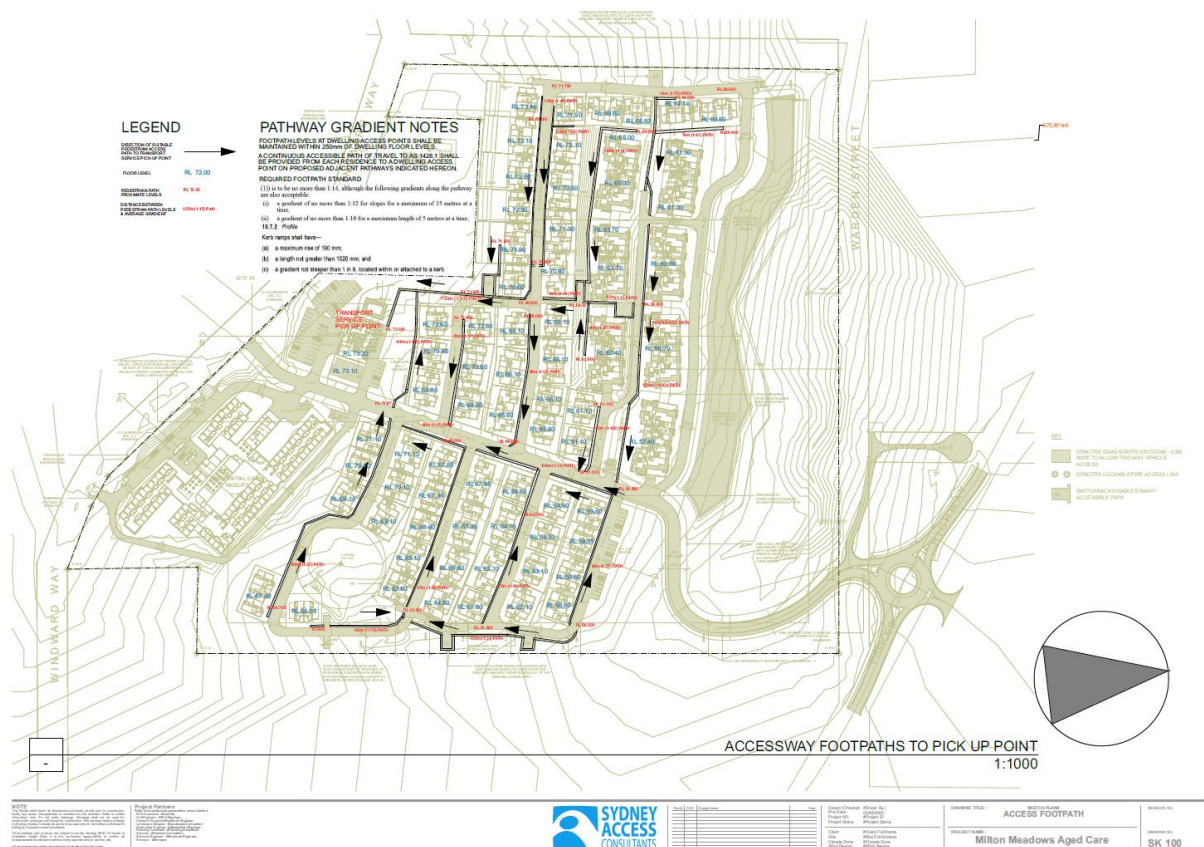
The main land forming impacts associated to the roundabout relate to the south side of the roundabout and associated south arm (road 1 Central Ave) which is the main entry road into the development and road (3 Warden Road West). The south side of the highway drops away 3.7m from 60.6m AHD (centreline) down to 56.9m AHD at Chainage 0 for road 3.

Given that the main road land forming impacts are contained within the developers land and will formalise unformed Warden Road West, these impacts are considered reasonable and will provide a net public benefit of improving access to the highway while improving safety of access for pedestrians and motorists. The submitted engineering plans indicate that the fill will be battered at a suitable angle with no retaining walls proposed.

Filling associated with roadworks in the highway corridor will be addressed under the s138 consent under the Roads Act 1993 to be approved by TfNSW in accord with their referral response dated 28/08/2019 (D20/298889).

- 2. Amended plans which show access routes (including footpaths) around the site for pedestrians and residents with mobility aids such as wheelchairs and mobility scooters. The amended plans should demonstrate that the requirements of Clauses 26 and 38 of SEPP (Housing for Seniors) can be met and therefore should include dimensions, gradients, concept designs for any switch back ramps proposed, routes for the proposed resident's bus and stopping points.**

A review of access arrangements for the development was carried out by Sydney Access Consultants (SAC) dated, 21 July 2020 (D20/368796) recommended the development be modified for the installation of *Suitable Access Pathways* (within the meaning of the SEPP), from all sole occupancy units, safely separated from vehicular traffic, to all of the common area facilities in accord with the attached Plan titled Access Footpaths to Pick up Point (D20/368799).



“The SEPP calls for a continuous accessible path of travel via a sealed pavement that is suitable for use by a person operating a mobility scooter. I have adopted this concept, restricting the suitable access pathways to those gradients limited by the SEPP, throughout the site to every SOU.”

Planners Comment

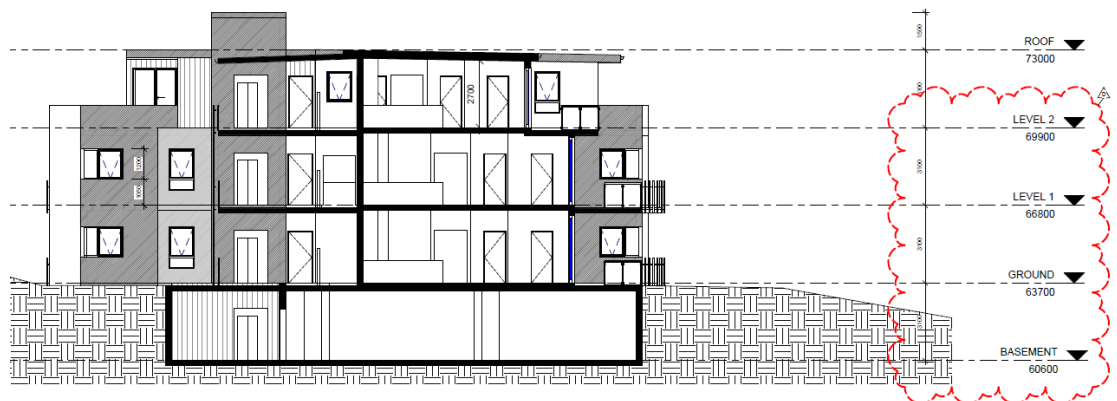
The submitted Accessway Footpath Plan and report demonstrates that all the pathway grades and distance of travel comply with clause 26 and 38 of the SEPP (Housing for Seniors) and provide access to the courtesy bus pickup/drop off location within 400m of the most distant SOU. The individual connection pathway links between the network paths described above and each SOU can easily be detailed prior to a Construction Certificate being issued.

3. Amended plans for the residential apartment buildings which demonstrate:
 - a. Compliance with SEPP 65 Apartment Design Guide in relation to the minimum floor to ceiling height of 2.7m and resultant overall height of the buildings

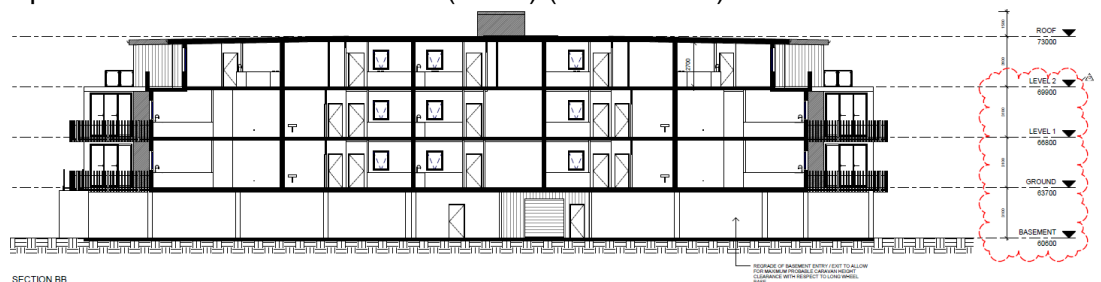
Proponent

Of note, the changes made to the Architectural Plans comprise the following:

- *Increase in floor to floor heights from 2.9m to 3.1m to allow for required services and compliance with ADG. This has been achieved by lowering the building 500mm and therefore the proposed building height remains unchanged.*
- *Basement has been reduced from 3.2m to 3.1m and meets required clearances for vehicles anticipated to use the basement.*



Apartment Sections - Section AA (DA43) (D20/391610)



Apartment Sections - Section BB (DA43) (D20/391610)

Comment

The minimum floor to ceiling height requirements identified by the Apartment Design Guide (ADG) have now been complied with.

By excavating down an additional 500mm and reducing the basement ceiling height by 100mm to 3.1m, the net result is no change to the overall height of the apartment buildings which remain compliant with the 11m height of building plane.

b. How those apartments facing the Princes Highway can meet noise mitigation and cross ventilation requirements simultaneously.

The Traffic Impact Noise Assessment submitted by Koikas Acoustics Pty Ltd (D20/368805) dated, 1 July 2020 also reviewed internal noise amenity for future residents. Clause 102 of the current version of the ISEPP (Dated 31 May 2019) states that:

*Where the development is for residential use, and the site is adjacent to a classified road that carries an annual daily traffic volume (AADT) of **more than 20,000 vehicles** and that the consent authority considers is likely to be impacted by road noise or vibration, maximum allowable indoor traffic noise levels are defined as:*

- *LAeq 35 dB In any bedroom in the building between the hours of 10:00 PM and 7:00 AM*
- *LAeq 40dB elsewhere in the building (excluding a garage, kitchen bathroom or hallway) at any other time*

The noise report identified that the anticipated AADT traffic volumes for the Princes Highway corridor past the development is not anticipated to exceed **13,672** vehicles in **2020** and **17,000** for an extended period until **2031**.

Given that the 20,000 vehicle AADT movement threshold adopted by the ISEPP is not exceeded or anticipated to be exceeded into the foreseeable future it is considered that the ISEPP requirements are not relevant to this application. In the longer term, this section of the Princes Highway is expected to be bypassed by the future Milton/Ulladulla Bypass which would remove highway through traffic and reducing the total AADT.

To further reinforce their point, the Koikas Acoustics noise report provided supplementary advice on Pages 17 -18 clarifying that the DoP Guidelines gazetted in 2008 to support the ISEPP, provide for a natural ventilation correction that is applied to the indoor target noise levels which state:

“if internal noise levels with windows or doors open exceed the criteria by more than 10 dBA , the design of the ventilation for those rooms should be such that occupants can leave windows closed, if they so desire, and also to meet the ventilation requirements of the Building Code of Australia”

Thus, the internal traffic noise objective for naturally ventilated rooms becomes 10 dB above the levels provided in ISEPP . The design level for naturally ventilated rooms becomes LAeq45dB for bedrooms and LAeq50 dB for living rooms. Therefore, internal traffic noise objectives would be summarised as:

Table 5. Internal traffic noise objectives per ISEPP and DoP guidelines [dB]				
Occupancy	Room type	Noise metric	Windows closed	Windows open [natural ventilation]
Residential	Sleeping areas	LAeq (9 hours)	35	45
	Living areas	LAeq (15 hours)	40	50

Therefore, on account of the existing traffic levels being LAeq (15 hours) 54 dB and LAeq (9 hours) 50 dB and conservatively presuming +2 DB for estimating traffic noise levels through a 10 year planning period, facade traffic noise levels would be LAeq (15 hours) 56 dB & LAeq (9 hours) 52 dB.

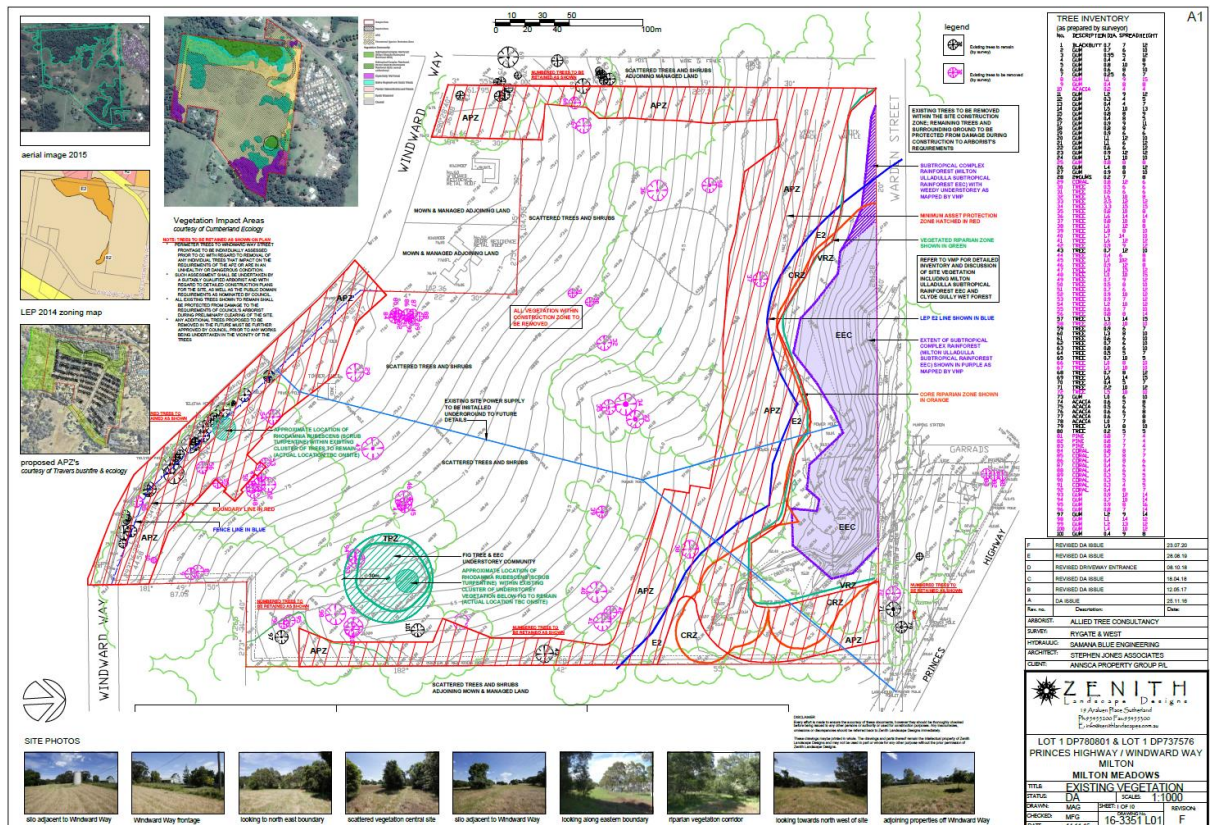
It is commonly accepted that 10 dB of noise reduction is achievable through an open window such that a room is naturally ventilated. Therefore, presuming open windows in the new development, indoor traffic levels would be LAeq (15 hours) 46 dB in living areas and LAeq (9 hours) 42 dB in sleeping areas, thus satisfying the ISEPP/DoP Guidelines.

Comment

While the ISEPP noise criteria is not triggered for the subject development, compliance would otherwise still be achieved under the ISEPP Guidelines *natural ventilation correction*. Complies.

4. Amended landscaping plans which show individual trees and other significant vegetation to be retained and removed across the site, consistent with the RFS requirements for vegetation management and arboricultural value.

Amended Landscape Plans (D20/391489) submitted by Zenith Landscape Design dated, 23/07/2020 detail the total number of trees on site proposed to be retained and removed. Based on that update, a total of **101** trees are present on site of which **47** are proposed to be retained and **54** removed.



Of the vegetation to be removed, that vegetation is not deemed to be of significance and of the vegetation being retained, that comprises two individuals of 1 threatened flora species *Rhodamnia rubescent*, a large Small Leaved Fig and associated EEC understorey and Milton Ulladulla Subtropical Rainforest EEC.

5. Further visual assessment taking into account the amended landscaping plans and the amended plans for the residential apartment buildings.

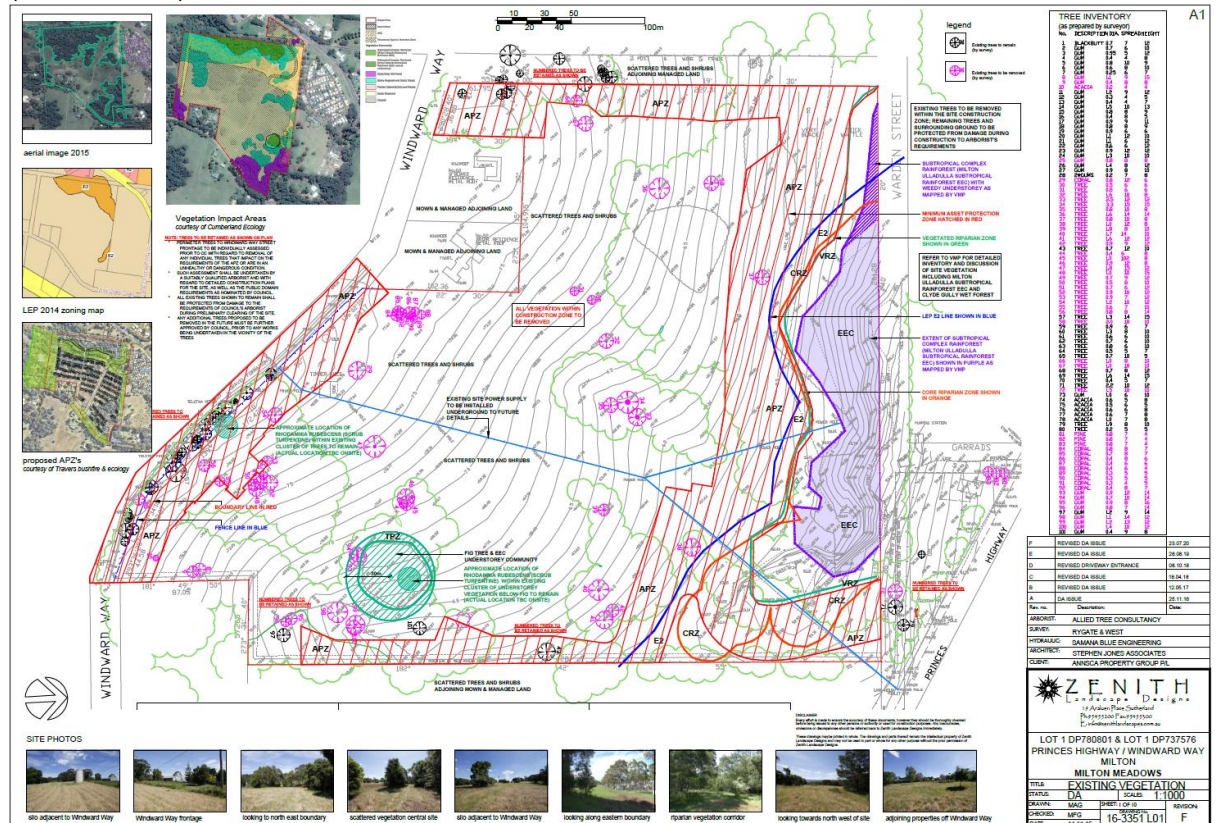
There have been no significant changes to the landscaping and therefore no significant changes to view impacts. Detail on view impact related to landscaping changes to meet bushfire requirements is addressed under point 8 below.

Whilst changes to the floor levels have been implemented for the residential flat buildings to comply with the ADG requirements, the additional internal height has been obtained by the lowering of the buildings into the ground by 500 mm and reducing the floor to ceiling height of the basement level to 3.1m (refer point 3 above). The maximum building heights have therefore not changed, and no additional visual impacts result from those architectural changes.

6. Amended plans which show the location of the overhead power lines and associated easement and their constraints on development and vegetation management.

The amended landscape plans Prepared by Zenith Landscape Designs detail the location of existing overhead power lines (light blue lines) that traverse the site.

(D20/391489)



The applicants state in their SEE their intent to underground power lines into the road reserves as part of servicing arrangements on site which would be subject to an agreement with the relevant energy provider. By undergrounding the power lines within the verge of road reserves, it removes conflict with vegetation management above ground and reduces the risk of trees coming into contact with power lines which is a better bushfire safety outcome.

7. Legal advice on the permissibility of the proposed commercial use of the medical centre.

A legal opinion provided by Storey and Gough Lawyers (D20/391513) dated, 27 August 2020 provided the following advice:

Ancillary Development

Where one use of land is prohibited it is still possible to carry it out on land in circumstances where that use is subservient to another, permissible use. The subservient use is known as an ancillary use and the purpose of that use is properly characterised as being part of the dominant use. A common example is that of a dwelling and garage. Properly characterised, the use of land for the purpose of a garage is for 'carparking', a use which is separately defined in most LEPs and is commonly prohibited in residential zones. However, in the case of residential garages, they are "subsumed" into the residential use and are characterised as ancillary to the residential use and properly characterised as a use for residential purposes.

The use of land in planning law is identified by the process of characterisation. The leading case on the characterisation of use is Chamwell Pty Limited v Strathfield Council (2007) 151 LGERA 114. In that case the development proposed was for a supermarket, access to which was by a road over a separate parcel of land where roads were permissible but supermarkets were prohibited. The applicant argued that the use of the land was not properly characterised as being for 'supermarket.'

Preston CJ found that the access road was part of the supermarket as it was designed to serve the end of enabling the supermarket to be carried on.

He said that:

"In planning law, use must be for a purpose: Shire of Perth v O'Keefe [1964] HCA 37; (1964) 110 CLR 529 at 534-535 and Minister Administering the Crown Lands Act v New South Wales Aboriginal Land Council (1993) 80 LGRA 173 at 188. The purpose is the end to which land is seen to serve. It describes the character which is imparted to the land at which the use is pursued: Shire of Perth v O'Keefe

Where the use of land is for two purposes the Court is tasked with determining whether those uses are the separate or independent uses of land, or whether one use is subsumed into the other.

Where land is used for two conflicting purposes, difficult questions of construction and characterisation can arise when the environmental planning instrument permits one purpose but prohibits the other. It may be necessary to ascertain, having regard to the character, extent and other features of the uses, whether the prohibited purpose can be regarded as subsumed in the permissible purpose, so that it is legitimate to disregard the prohibited purpose and treat the permissible purpose as that for which the land is used, or whether they are independent of each other so that the land is being used for both prohibited and permissible purposes.¹

Characterising the Proposed Development

We note that the medical centre will be a small part of the overall development, and the retirement village use would therefore appear on first blush to be the dominant use of the land. Whilst that may be a factor in determining whether one use is dominant over the other, that that is not the test for characterisation.

Medical Centre

In the subject development, we understand that the medical centre is proposed to only provide services to the residents of the retirement village, and that it will not be open to the general public. Further, we understand that the retirement village contains 89 beds to cater for high dependency residents. We are of the opinion that the proposed medical centre within the development is an essential and necessary feature of a retirement village of this nature and would properly be considered as ancillary to the village use as it would be subservient to the dominant use as a village and would not be characterised as an independent use of the land.

Restaurant

We understand that the restaurant will be open to the public. If the majority of patrons to the restaurant are from the village it is arguable that the restaurant use would be ancillary to the dominant use of the village as its dominant use would be the provision

of meals to the village residents. It is a question of fact and degree as a restaurant in this location would otherwise be prohibited.

Comment

As with my earlier report to the Regional Panel it is my view that both the medical centre and restaurant remain ancillary to the seniors housing development. **Draft conditions (97 & 98) address the ancillary use of the proposed Medical Centre and restaurant.**

8. The implications of the General Terms of Approval received from the RFS, including how the requirement to manage Asset Protection Zones as Inner Protection Areas will affect the capacity of perimeter vegetation to mitigate visual impact

The NSW RFS re-issued General Terms of Approval and a s100B Bush Fire Safety Authority (D20/418936) on 19 May 2020. The BFSa provides the following requirement:

Asset Protection Zones

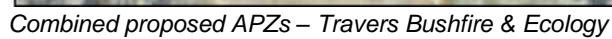
At the commencement of building works and in perpetuity, the area around the proposed development shall be managed as an asset protection zone (APZ) as outlined in Appendix 4 of 'Planning for Bush Fire Protection 2019' as follows:

- *North: Inner Protection Area (IPA) for a minimum distance of 37 metres from the building envelopes; and,*
- *All other directions: IPA from the building envelopes to the property boundaries.*

When establishing and maintaining an IPA, the following requirements apply:

- *tree canopy cover should be less than 15% at maturity;*
- *trees at maturity should not touch or overhang buildings;*
- *lower limbs should be removed up to a height of 2 metres above the ground;*
- *tree canopies should be separated by 2 to 5 metres;*
- *preference should be given to smooth-barked and evergreen trees;*
- *large discontinuities or gaps should be provided in the vegetation to slow down or break the progress of fire towards buildings;*
- *shrubs should not be located under trees;*
- *shrubs should not form more than 10% of ground cover;*
- *clumps of shrubs should be separated from exposed windows and doors by a distance at least twice the height of the vegetation.*
- *grass should be kept mown (as a guide, grass should be kept to no more than 100mm in height); and*
- *leaves and vegetation debris should be removed.*

Note: *The NSW RFS acknowledges that the large native fig within the south eastern corner of the site is to be retained.*



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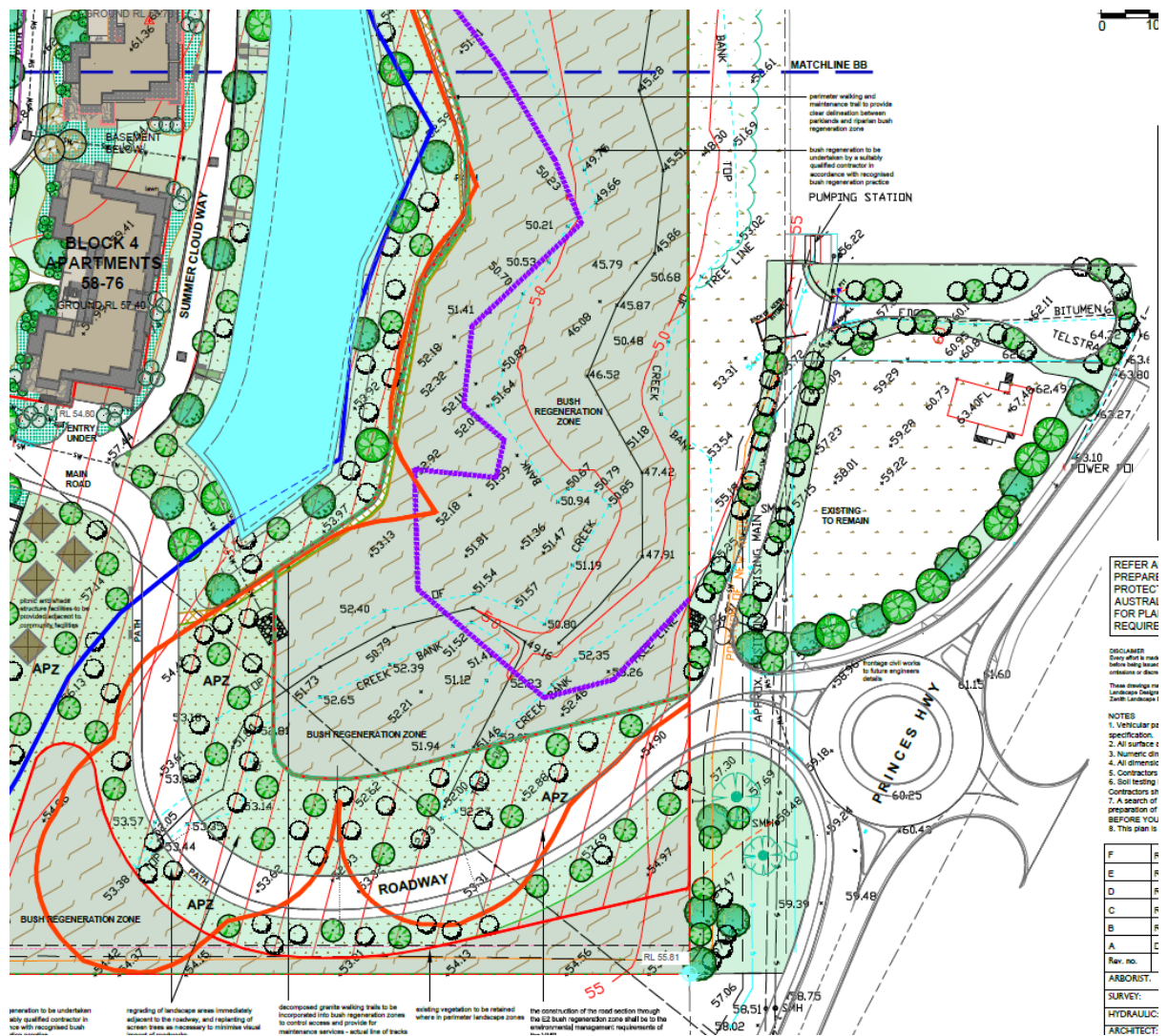
Extract of Zenith Landscape plan identifies APZs (purple zone marked L)

Implications of APZ requirements on Perimeter Vegetation Visual Screening

North (Highway Views)

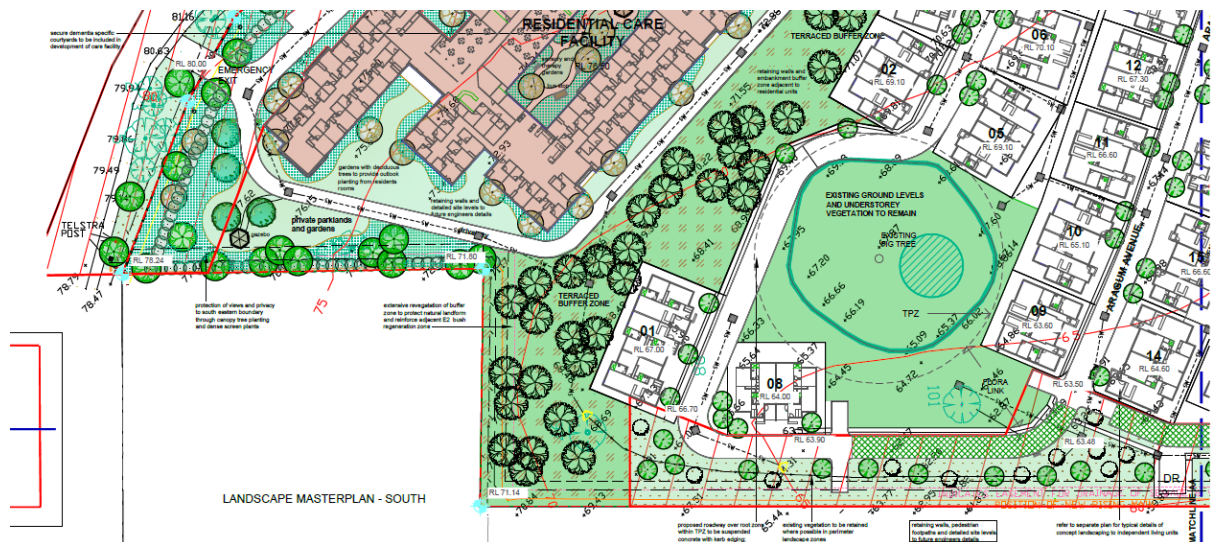
The main difference with the revised landscaping plan facing the highway is the IPA now extends 37m north from the north face of buildings along Summer Cloud Way to the bush regeneration zone (riparian zone).

While vegetation plantings within the IPA are more spaced out as individual trees to comply with the Appendix 4 of 'PBP 2019, they will retain an effective screen to the highway given proposed highway south side landscaping, the circular nature of the main entry road landscaping preventing line of sight and the existing density of riparian vegetation.



East through adjoining Caravan Park (Future MHE)

Effective screening along this boundary is difficult to achieve given the close proximity of the adjoining caravan park sites and the minimal landscaping within the caravan park. The change to landscaping along this frontage to comply with Appendix 4 of 'PBP 2019, consists of spacing trees more individually than the previous clumped grouping design that will provide a more filtered view between the properties.



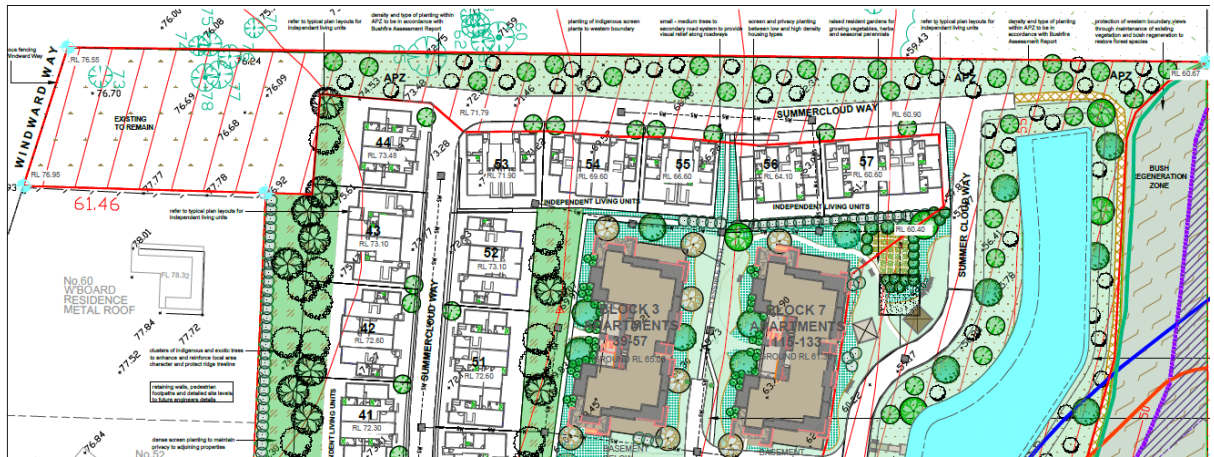
South adjacent Winward Way

The change to landscaping along this frontage to comply with Appendix 4 of 'PBP 2019, consists of spacing trees more individually than the previous clumped and rowed grouping design that will provide a more filtered view of the development from Winward way than the previous landscape plan. Given the extensive setback of the RCF to Winward Way it is considered that adequate screening for this frontage is proposed.



West adjacent unnamed Road Reserve

The change to landscaping along this frontage to comply with Appendix 4 of 'PBP 2019, consists of spacing trees more individually and in a staggered arrangement than the previous clumped and spaced design that will provide a more continuous screen.



To minimise visibility of built form adjacent this boundary, the first row of buildings are all setback 20m and comprise single storey SOUs. The multistorey apartment buildings are setback approximately 45-47m from the western boundary and are nestled into the lower slope to minimise their potential visual impact to this boundary.

Boundaries shared with 60 & 62 Winward Way

Landscaping in these areas is essentially unchanged by Appendix 4 of 'PBP 2019 as adjoining dwelling sites are considered managed land and do not require an APZ.

RECOMMENDATION

This application has been assessed having regard for section 4.15 (matters for consideration) under the EPA Act. As such, it is recommended that development application number RA 17/1001 (JRPP No.2017STH018) for seniors housing be approved by way of the recommended revised conditions.