



SYDNEY CENTRAL CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSCC-288
DA Number	DA/873/2021
LGA	City of Parramatta Council
Proposed Development	Demolition, tree removal and construction of a 160 bed Residential Care Facility pursuant to the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. The proposal is Integrated Development pursuant to the Roads Act 1993. The application will be determined by the Sydney Central City Planning Panel.
Street Address	235-237 Marsden Road, Carlingford
Applicant/Owner	Principal Healthcare Pty Limited
Date of DA lodgement	20 September 2021
Number of Submissions	Five unique submissions
Recommendation	Deferred commencement approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	General Development Over \$30 Million Cost of Construction proposed = \$45,243,219.00
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none">• Environmental Planning and Assessment Act and Regulations• Roads Act 1993.• State Environmental Planning Policy (Resilience and Hazards) 2021.• State Environmental Planning Policy (Biodiversity and Conservation) 2021.• State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.• State Environmental Planning Policy (Transport and Infrastructure).• State Environmental Planning Policy (Planning Systems) 2021.• Parramatta Local Environmental Plan 2011.
Report prepared by	Sohini Sen, Senior Development Assessment Officer
Report date	15 July 2022

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

Clause 4.6 Exceptions to development standards**Yes**

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?

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

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?

Yes

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

1. Executive Summary

This report considers a proposal for demolition, tree removal and construction of a 160 bed Residential Care Facility with ancillary landscape works.

Assessment of the application against the relevant planning framework and consideration of matters by Council's technical departments has not identified any fundamental issues of concerns. The application is therefore satisfactory when evaluated against Section 4.15 of the Environmental Planning and Assessment Act 1979.

This report recommends that the Panel:

- Grant development consent for development proposal subject of this application, subject to the recommended conditions.

2. Key Issues

- Variation to locational requirements for residential care facilities under SEPP (Housing for Seniors or People with a Disability) 2004.

SYDNEY CENTRAL CITY PLANNING PANEL BRIEFING

The application was presented to the Sydney Central City Planning Panel at a briefing meeting on 3 February 2022. A response to the issues raised by the panel is provided below.

Key Issues Discussed

- *The proposal seeks a variation to Clause 26 of SEPP (Housing for Seniors or People with a Disability) 2004 which refers to the location and access to facilities. The Panel observed that this variation may be justified as many residents may not be mobile and that a number of facilities are provided on site including lounge areas, a gym, wellness centre, café and salon.*

Comment: Noted.

- *The applicant has indicated that a community bus will be provided, however particularly as the variation to Clause 26 is sought, the frequency of bus services should be discussed with the applicant to ensure that residents are easily able to access local shops and facilities as needed.*

Comment: The applicant has advised that “Opal Healthcare typically provide a mini-bus which is shared between three (3) Opal Homes that are each in close proximity to each other. If there is demand for it, the mini-bus also provides an available means of transport for residents to the local shops, banking facilities, pharmacy and other local amenities as requested. Additionally, Opal Healthcare residents are typically deemed high care and as such have minimal requirements and desire to visit these facilities on an individual basis, particularly in numbers that may necessitate a mini-bus.

Individual residents across Opal Homes may express an occasional desire to visit the shops and services. Where requests are made, Opal will appropriately respond by providing team members and/or registered nurses to escort residents (usually via a taxi) who will assist them throughout the journey. In addition, given many residents are typically high care, it has been found that many residents enjoy undertaking these outings to shops and facilities with family members who assist them throughout the journey”.

It is considered that adequate transportation options are in place for the proposed development which satisfy the intent of Clause 26 of SEPP (Housing for Seniors or People with a Disability) 2004. The availability of the minibus as an on-demand option where required would be a recommended condition of consent were this application recommended for approval.

- *The Panel noted that insufficient outdoor open space appears to have been provided, and that the slope of the site may be inhibiting this provision. Nevertheless, the Panel considers it important for resident’s wellbeing that functional, well designed outdoor space is available and easily accessible, and encourages the applicant to undertake further investigations into how this may be provided.*

For example, the Panel observes that more parking spaces are provided than are required, and that some of these spaces are on level ground accessible to the facility, which may be better used for outdoor open space.

Comment: The proposed development provides 45m² of landscaped area per bed, in excess of the required 25m² per bed under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. Additionally, it is noted that the SEPP and Parramatta Development Control Plan 2011 (PDCP 2011) do not prescribe a numerical requirement for open space.

A key design element for open space and landscape areas across this development has been the implementation of the landscaped roof for residents predominately of the central wing and western wing to enjoy, as well as other areas throughout the site. The eastern landscaped area is significant in scale and provides sitting areas and the like for residents across the whole development.

The option of removing some car parking spaces to provide additional landscaped areas was considered by the applicant however ultimately not pursued for the following reasons:

- The parking provided in excess of the minimum requirements accounts to overflow parking during peak holiday visiting times and will accommodate employees during shift changes for the residents who require full time care.
- The subject area where car parking could be removed is between the central and eastern wing and is dedicated to Memory Care Neighbourhood (MCN) residents only. Accordingly, the minor addition of outdoor open space as a result of the removal of five (5) car parking spaces is not considered to outweigh the benefit of additional open space in this area as it will not be

accessible for all residents across the site. The proposed outdoor area for the MCN provides a substantial dedicated area for the 18 MCN residents to enjoy including appropriate security and safety. The security fence within this portion of the open space would be required to be pushed back to align with the parking and lead to undesirable monitoring and safety issues for residents of MCN. A rectangular open space area is preferred for MCN residents to ensure staff have full visibility at all times. As such, the removal of parking spaces to add to this area would have potential security risks.

- As there is a slope between the car parking area and adjacent open space area, conversion of the car parking area would require further excavation on the site.

- *Stormwater drainage is still to be resolved in relation to the adjoining cemetery.*

Comment: Stormwater drainage has been resolved in a satisfactory manner subject to recommended conditions of consent.

- *Additional information has been requested in relation to several matters including traffic and accessibility, urban design, engineering and environmental health. Some of this has been received and is being assessed while other information is still to be submitted.*

Comment: Additional information was submitted by the applicant relating to traffic, environmental health, engineering, accessibility and urban design. A review of the additional information found that issues have been adequately resolved and therefore the application is recommended for deferred commencement approval.

3. The Site and Surrounds

The site is known as 235-237 Marsden Road, Carlingford (Lots 1, 2 and 3 DP 5982) and comprises three allotments with a total site area of 12,884m². The site is irregularly shaped and has a slope to the south-east to an access handle for St Paul's Church Cemetery which is identified as a local heritage item under the Parramatta Local Environmental Plan 2011 (LEP 2011). Existing vehicular and pedestrian access to the site is off Marsden Road.

The site has a cross-fall of approximately 11m from the north-west to the south-east. The site has a frontage of 150m with a rear boundary of 94.41m, eastern boundary of 184.87m and western boundary of 85.89m.

The site is zoned R2 Low Density Residential under LEP 2011. Surrounding properties are also zoned R2 Low Density Residential. The site also adjoins land zoned RE1 Public Recreation. The site currently comprises a plant nursery and two single storey dwellings on the western and eastern allotments.

Development adjoining the site includes two storey residential dwellings and Simpson Reserve to the north, St Paul's Church Cemetery and a mix of one and two storey dwellings to the east, a townhouse development to the west.

The site is located in proximity to Carlingford Village retail precinct and a number of other commercial and retail uses further west of the site.



Figure 1: Aerial map with subject site outlined in yellow (Nearmap)

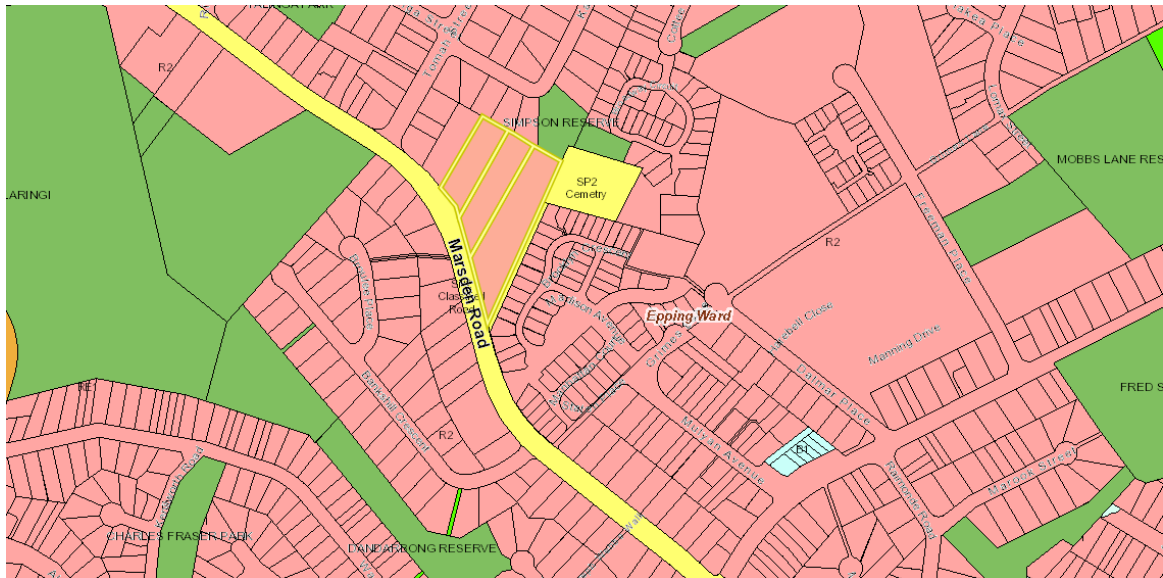


Figure 2: Zoning Map (LEP 2011)

4. Development History

Pre-lodgement Meeting

The proposal was considered by Council at a pre-lodgement meeting on 18 August 2021 (PL/82/2021).

The key issues raised by Council essentially relates to location and access to facilities, compatibility of the development, amenity, streetscape, privacy, level of excavation, accessibility, height, FSR, and landscaped area. The proposed development has taken into consideration these matters in the scheme submitted with this Development Application.

5. The Proposal

The subject Development Application seeks development consent for demolition, tree removal and construction of a 160 bed Residential Care Facility pursuant to the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

The proposed development includes the following components:

- Demolition of all existing structures on the site.
- Tree removal of nineteen trees (19) on the site.
- Construction of a two storey Residential Care Facility comprising:
 - 160 beds;
 - Lounge areas, dining area, gym and amenities for residents;
 - Resident community 'Town Centre' with café, salon, wellness centre, multi-purpose rooms, laundry areas; and
 - Communal outdoor areas.
- At-grade parking for 46 vehicles with vehicular access off Marsden Road.
- Landscaping and site works.



Figure 3: 3D perspective of proposed development as viewed from Marsden Road (Custance).

The development has a total gross floor area of 8,693.94m² and the proposed building height is 10.6m. It is noted that while the development exceeds the maximum LEP Floor Space Ratio and Building Height controls, the proposal complies with the Floor Space Ratio and Building Height provisions under SEPP (Housing for Seniors or People with a Disability) 2004.

Amended plans were received during the course of assessment of this application with the following changes:

Amended architectural plans were submitted with the following changes:

- Addition of landscape elements over the car parking area.
- Additional tree planting to the frontage of the south-eastern wing of the development.

Other amended documentation submitted includes:

- Remedial Action Plan.
- Stormwater Plans.
- Landscape Plans.
- Detailed Site Investigation Report.
- Geotechnical Report.

- Stormwater Engineering Statement.
- Traffic Swept Paths.
- 3D Images.
- Food Services Design Compliance Certificate.

The amended plans and documentation are the subject of this assessment.

6. Referrals

The following internal and external referrals were undertaken:

<p>Design Excellence Advisory Panel</p>	<p>The Design Excellence Advisory Panel made the following comments in relation to the scheme:</p> <p>The proposed layout is considered appropriate in its response to the surrounding context and to the topography of the site. The proposed style and form of the buildings are also in-keeping with the scale and character of the area.</p> <p>The Panel commends the applicant for using Swain Gardens to influence the landscape character for the project. In this regard, the Panel suggested also using names associated with the history of the site for different parts of the new development.</p> <p>Whilst the proposal has generally adhered to the initial design concept expressed in the urban design diagrams, the Panel queried the open parking area on the northern side of the development. The Panel's view is that the parking area would be better utilised as landscaped open space and the car park to be located elsewhere and preferably under the western most building. In response, the applicant raised the issue of the additional excavation that would be required to extend the below ground parking area. Should the open parking area be retained in its current position it would need to be redesigned to include a grid of canopy type trees appropriately laid out to provide shade and visual relief to the parking lot. In addition, a pergola extending across the western edge to this parking area to allow for suitable climbing plants should also be provided. This will provide some additional screening of the car park from the northern end of the west wing of the proposal.</p> <p>A Planning Proposal for a townhouse development was previously lodged that sought to increase the height limit for the property. Associated with the PP was a plan to provide a through site link from Marsden Road to Simpson Reserve. Whilst the Planning Proposal was subsequently withdrawn, Council is still seeking to achieve a through site link as part of enhancing the public open space and green grid for the area the area.</p> <p>The Panel agrees with Council and would encourage the applicant to include a pedestrian path from the northern end of the ROW on the eastern boundary to link it up with Simpson Reserve. The pathway could be managed as a secure area with gates. (See below comments regarding visitor access).</p>
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	<p>The amount of excavation for the development was queried by the Panel with regard to environmental impacts resulting from extensive earthworks and with regard to having units below natural ground level.</p> <p>In response the applicant presented sections showing the use of terraces to minimise the impact of the retaining walls on the amenity of the lower ground floor units. Although this has gone some way to addressing the problem, the Panel considers that more could be done such as stepping the buildings more regularly in response to the topography and/or lifting the buildings slightly more out of the ground in order to; reduce the impact on the environment with less cut and fill; improve the outlook from the units; and improve access to natural light and ventilation for the affected units.</p> <p>On balance the benefits outlined above would outweigh any further breaches of the height limit noting that any breaches of the height limit would be subject to consideration of a revised clause 4.6 variation request.</p> <p>Whilst the proposed development is low in scale, the overall footprint and the bulk and scale of the development is still considered to be significant. The proposed building block adjacent to the eastern boundary in particular is very long and unforgiving and the gap in the middle where it changes direction relatively narrow. The opportunity to widen the gap should be explored to provide a stronger break in the building and to open it up more to the outside when viewed from the corridors and lobby areas.</p> <p>As discussed elsewhere in this report, the courtyards on either side of the central block appear small given the number of units in the development and the size of the property. The recommended use of the parking to the north as common open space (see 3 above) would resolve that issue as the courtyards would then be ancillary space to the main courtyard.</p> <p>Further to the above, the Panel suggested moving the eastern most block or its northern wing closer to the eastern boundary in order to increase the width of the courtyard.</p> <p>Lifting the buildings more out of the ground as mentioned above, would also help to improve the amenity of the courtyards.</p> <p>The Panel suggested the proposed activity rooms could also be used as break out meeting places for residents and for family gatherings. More should be done to make these spaces bigger, more adaptable and better connected to the outside and to providing natural light and ventilation to the internal corridors.</p> <p>19 trees are proposed to be removed. Any loss of trees should be avoided where possible. The panel acknowledges the consulting Landscape Architects efforts in tree retention and noted the extensive new canopy trees that are proposed to be planted in appropriate locations throughout the site.</p>
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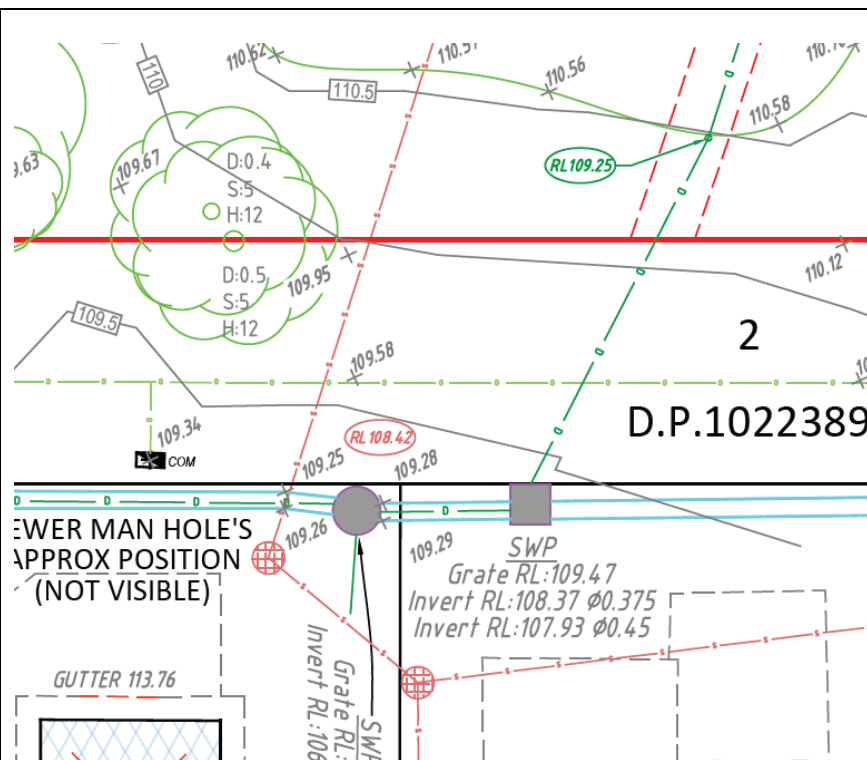
	<p>The main entrance to the site should incorporate substantial planting including trees with canopies sufficient to mitigate the effect of hard paving and to further soften the view of the development from the street.</p> <p>There is a lack of 3D images showing various parts of the development such as views from Marsden Street, views showing the entry sequence and variety of views of the different outdoor spaces. The applicant is advised to provide more 3D images in future submissions to Council.</p> <p>The applicant should provide a range of ESD strategies including water, energy and waste management, to be included in future submissions to the Panel.</p> <p><u>Planning Comment:</u></p> <p>Amended plans and documentation (including additional 3D images) were submitted following the review by the Design Excellence Advisory Panel. Upon further investigation by the applicant, relocation of the car park under the western building wing would further increase the extent of excavation across the site and is not considered suitable as it would impact upon adjoining properties. The location of the car parking within the centre of the development is considered appropriate as that is where the key facilities are located, and this would minimise the path of travel from the parking areas to these facilities. Additional landscaping elements have been provided over the car park area as requested in order to provide shade and visual relief.</p> <p>It is noted that the previous Planning Proposal for this site as mentioned within the panel's comments was withdrawn and is not within the scope of the subject application. As such, the outcome of the Planning Proposal is not a formal consideration of this application.</p> <p>The scope of excavation is considered to be appropriate given the existing site topography and scale of development however there are resulting issues with stormwater drainage that have not been sufficiently resolved and form the key reasons for refusal of this application.</p> <p>It is also noted that landscaping is unable to be provided to the north where the current parking area is as this space would only be accessible by those living in the Memory Care Neighbourhood which requires additional security and supervision measures.</p> <p>Additional tree planting is provided along the frontage of the south-eastern wing to soften the visual impact of the development from the south.</p> <p>On balance, the proposed development (as amended) is considered to be suitable with regards to urban design.</p>
Development Engineer	<p>Supported, subject to deferred commencement conditions of consent.</p> <p>The Site</p>

	<p>The site consists of three lots on Marsden Road, falling from west to east (across the sites) and are not flood affected (but is in a grey area). On the site currently are single dwellings and a commercial nursey. Through the site (exiting at the eastern boundary) is an easement to drain water that belongs to Transport for NSW. It is unknown where the existing easement connects to Council's stormwater system. To the east of the site (downstream) is a cemetery and a private estate - community title where the details for the location of the easement ends. East of the site is a small townhouse development (upstream). The site has uncontrolled fill present and classified as a class "P" reactive site</p> <p>The Proposal</p> <p>The proposal is for an aged care facility. The facility increases impervious areas significantly with carparking (above and belowground), dwellings and driveways.</p> <p><i>Earthworks/retaining walls pavements</i></p> <p>Earthworks are required up to 2m cut at the north of the site and 2m of fill at the southeast corner of the site. Total cut/fill is +9695m³ (does not include excavations for stripping, service trenching, detailed excavation) with an estimated 2000 – 4000m³ of uncontrolled fill across the site. Without records of Level 1 supervision, it can be assumed that it is in fact uncontrolled filled. Contaminants have been found on the existing surface and soil.</p> <p><i>Stormwater</i></p> <p>The stormwater plans propose to drain the site to an OSD system located near the eastern boundary not far from the lowest point of the site. The rainwater tank will also be cast in-situ and form a section of the structure with an overflow weir to the rest of the storage. The existing easement that intersects the site is being relocated (sealed junction pits and pipes) around the building footprint. Talks with TfNSW are underway to alter this easement. The applicant has not provided enough information regarding the legal discharge point and this issue is conditioned. A portion of the site is battered down towards the property east of the site allowing flows to bypass the legal discharge point in an uncontrolled manner. This has been conditioned to be resolved as part of the deferred commencement. OSD calculations have been reviewed and require amendments.</p> <p><u>Legal Discharge Point</u></p>
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The applicant has not provided enough detail regarding location, capacity of the existing pipe or condition of the existing pipe in the existing easement over the downstream properties. The site is also not a beneficiary of the easement. They are currently in talks with TfNSW (the owner of the easement over the subject site)

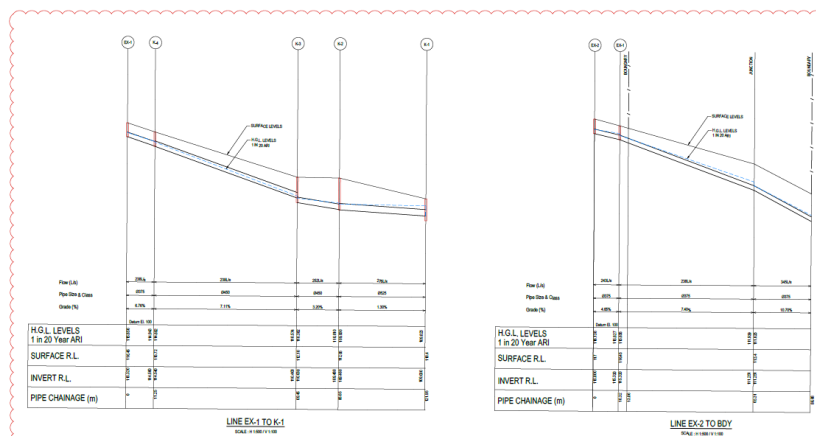
Location

The easement owned by TfNSW currently runs through the site and exists through the south of the site. Approval from TfNSW is currently being sought to relocate the easement in the site so that it wraps around the proposed building. After the site the easement runs to a junction pit in a downstream property and there are no further details provided. The applicant has also provided no indication that they have contacted downstream property owners requesting to connect into the easement.



Capacity and Condition

As per Council's Engineering Design Guidelines Section 2, Part 3.1, "The OSD system shall function during all storm events up to and including the 100 year ARI storm event." Due to this requirement, the capacity of the pit and pipe system must be designed to cater for the 1% AEP storm event to where the system connects to a legal discharge point. The applicant has only checked the capacity of the pipe for the 5% AEP storm event for a portion of the easement, not to the legal discharge point. Details on the condition of the pipe were only provided where the pipe is proposed to be relocated.



If the pipeline that the applicant proposes to utilise requires to be upgraded, Council needs to be certain that it can be completed.

Other issues that are raised include:

- As there has not been an assessment of the downstream system, Council can only assume that the downstream flood level is at the surface level of connection point to the existing system at RL 110.4, severely drowning the OSD system.
- Music model did not incorporate OSD bypass area
- Courtyard is a trapped low point, which in the event of a system failure cannot drain.

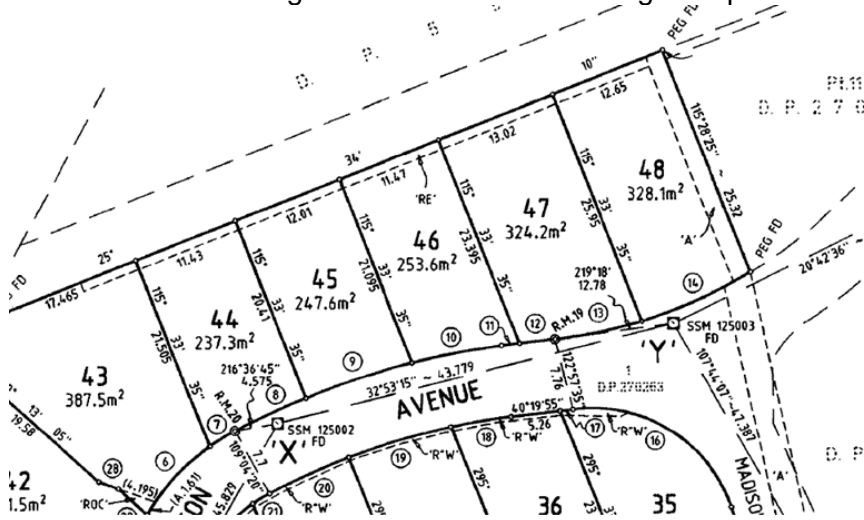
- Site flows are not directed to legal discharge point.

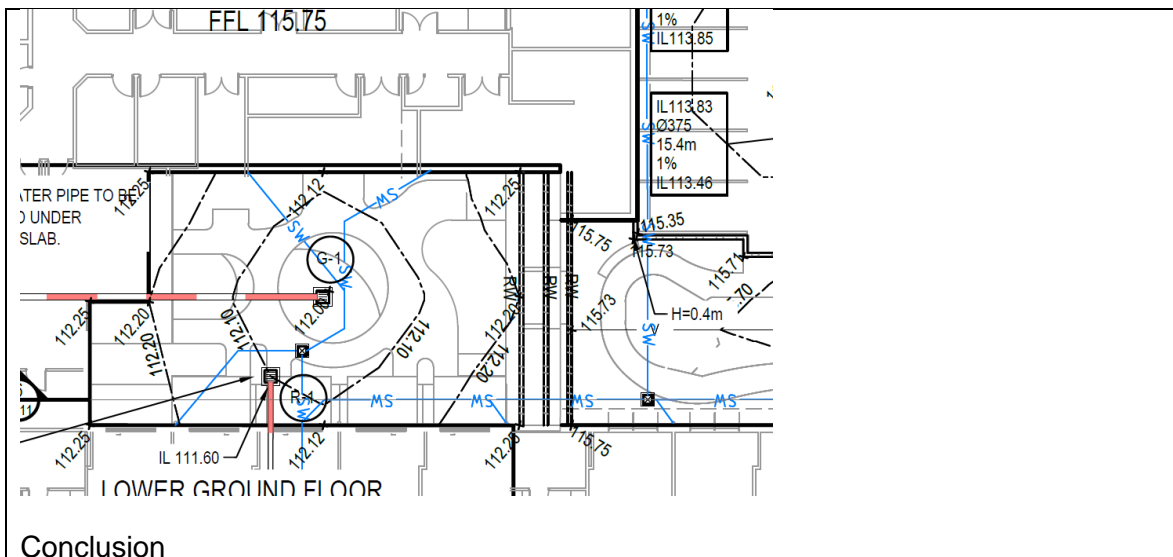
The subdivision plans for Dalmar Estate (private estate downstream of the site) were reviewed to see how the subdivision drained external flows due to the applicant's reluctance to assess the capacity of the pipe in the easement and its condition. After this review, deferred commencement conditions have been applied for the missing information and shortfalls of the concept plans.

The pipe that the site is proposing to connect to has a design capacity of 677 L/s and there is a box channel (min capacity of 170 L/s) that could receive emergency overflows from the system. The existing subdivision had designed to direct external flows to Council's stormwater infrastructure up to the 5% AEP storm event of the subject site.



There is also opportunity for emergency overland flows to make their way to Mulyan Avenue via an existing easement that runs through the private estate.





<p>The proposal satisfies the requirements of Council's controls and can be supported, subject to standard and special conditions of consent.</p>	
<p>Tree and Landscape Officer</p>	<p>Supported, subject to conditions. An inspection of the subject site was undertaken on 27 October 2021. The trees proposed to be removed are largely of low retention value. There are trees proposed to be removed that are not subject to Council's controls. The proposal is keeping most of the mature, healthy native trees in the south-eastern corner of the site, which is a good outcome. This outcome will also provide screening and continuity of planting to the adjoining Carlingford Anglican Cemetery.</p> <p>There is a proposal to have a different themed courtyards and gardens, all of which are exotic. It is recommended that there is an interspersing of native plantings or a lessening of exotic species to be planted.</p>
<p>Open Space and Natural Areas Officer Heritage Advisor</p>	<p>Supported, subject to conditions of consent. Supported.</p> <p>In general, this proposal would have a neutral heritage impact to the area and to the adjoining heritage sites and the one in the vicinity. The scale and architectural design of the redevelopment would be limited to a maximum of two storeys.</p> <p>Some excavation would be required to allow the development to benefit from a particular topography of the site.</p> <p>The proposed setbacks from the lot boundaries, together with the provision of retaining in part the trees and implementing</p>

	<p>the existing landscape with the plantation of new trees would mitigate some views from and to the development site. This ameliorated landscape would help to screen the visual impact of new proposed facility, creating some privacy especially from the main views on the eastern side and from the heritage items nearby.</p> <p>The selection of the proposed material and to the contemporary design of the elevations this proposed development will result in a proposal sympathetic within the context. This proposal can be supported on the heritage ground and perspective as it would not dominate or visually impact the heritage item in the vicinity.</p>
Urban Design (Public Domain)	<p>The applicant is requested to amend the DA drawings to address the issues raised in the comments above and summarised below and be resubmit to the DTSU Manager prior to public domain DA approval:</p> <ul style="list-style-type: none"> • The provision of a ROW connection between Marsden Road and Simpson Reserve • The provision of a community open space with canopy trees in deep soil • The provision of a green pocket with large canopy trees at Marsden Road frontage • The extent and depth of cut ensures existing water table flows leaving the site are maintained, and the public domain drawings and the public domain alignment drawings be submitted to Manager DTSU prior to DA approval. <p><u>Planning Comment:</u></p> <p>It is noted that the previous Planning Proposal for this site as mentioned within the panel's comments was withdrawn and is not within the scope of the subject application. As such, the outcome of the Planning Proposal is not a formal consideration of this application.</p> <p>A Geotechnical Report was submitted with this application confirming that the proposal development will not lower the water table. Adequate landscape areas are provided on the site.</p>
Urban Design (Building)	<p>Urban Design suggests the provision of a Right of Way (ROW) connecting Marsden Road and Simpson Reserve, ideally located at the eastern boundary. This ROW-</p>

	<p>Easement could be pedestrian with possibility of being used by emergency vehicles. The new connection needs to carefully consider the existing trees along the boundary.</p> <p><u>Built Form</u></p> <p>At present, the current layout does not provide adequate quality amenity for residents and the community. The main COS should be located at the rear, facing north, and associated with deep soil zone and large canopy trees. However, it is noticed that the layout proposes an open-air car park in this location instead.</p> <p>The buildings are well modulated and fragmented; the overall layout is supported.</p> <p>The central wing of building extends too close to the southern boundary. Marsden road bends in this location and the view corridor terminates right where the carport is proposed. Ideally the view corridor should not terminate into a built form; it is suggested that the porter cochere and the main entry are recessed. Large canopy tree should be planted in this area. Further analysis is needed to demonstrate whether this is an acceptable outcome.</p> <p>It is also noticed that an excessive excavation is proposed (refer to cross section 2 and 3). Area C could be lifted to minimize excavation and retaining walls still not exceeding the height limit.</p> <p><u>Planning Comment:</u></p> <p>Comments in relation to the requested Right of Way has been addressed in relation to the public domain comments above. Comments in relation to the built form issues raised have already been addressed above in response to the Design Excellence Advisory Panel comments. On balance, the proposed development is considered acceptable with regards to urban design.</p>
Accessibility	<p>Council's Accessibility Officer raised the following issues:</p> <ul style="list-style-type: none"> • There doesn't appear to be an accessible path of travel to or from Marsden Road to the principal entrance. (Porte Cochere) • An unsigned lift supporting letter has been provided which addresses the

	<p>frailty of the clients however, given this acknowledgement how is it proposed to evacuate the residents from their “neighbourhoods” in case of an emergency or fire? with direct ‘access to a road or open space’ as per BCA E3.8.</p> <p>Planning Comment: A path of travel is shown on the amended landscape plans. Were this application recommended for approval, conditions of consent requiring compliance with the BCA would be included.</p>
Traffic and Transport Engineer	Supported, subject to conditions of consent.
Environmental Health Officer (Waste)	Supported, subject to conditions of consent.
Environmental Health Officer (Acoustic)	Supported, subject to conditions of consent.
Environmental Health Officer (Food)	Supported, subject to conditions of consent.
Environmental Health Officer (Contamination)	Supported, subject to conditions of consent.
Property Officer	No objections raised.
Sydney Water	Supported, subject to conditions of consent.
Endeavour Energy	Supported, subject to conditions of consent.
Transport for NSW (RMS)	Supported, subject to deferred commencement conditions of consent.

7. Assessment under Environmental Planning and Assessment Act 1979

The sections of this Act which require consideration are addressed below:

Section 4.15: Evaluation

This section specifies the matters which a consent authority must consider when determining a development application, and these are addressed in the Table below:

Provision	Comment
Section 4.15(1)(a)(i) - Environmental planning instruments	Refer to section 8.
Section 4.15 (1)(a)(ii) - Draft environmental planning instruments	Refer to section 9.
Section 4.15 (1)(a)(iii) – Development control plans	Refer to section 10.
Section 4.15 (1)(a)(iiia) - Planning agreement	Refer to section 11.
Section 4.15 (1)(a)(iv) - The Regulations	Refer to section 12.
Section 4.15 (1)(b) – The likely impacts of the development	Refer to section 13.
Section 4.15 (1)(c) – The suitability of the site for development	Refer to section 14.
Section 4.15 (1)(d) – Any submissions	Refer to section 15.
Section 4.15 (1)(e) – The public interest	Refer to section 16.

8. Environmental Planning Instruments

Overview

The instruments applicable to this application comprise:

- Environmental Planning and Assessment Act 1979.
- Roads Act 1993.
- State Environmental Planning Policy (Resilience and Hazards) 2021.
- State Environmental Planning Policy (Biodiversity and Conservation) 2021.
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
- State Environmental Planning Policy (Transport and Infrastructure).
- State Environmental Planning Policy (Planning Systems) 2021.
- Parramatta Local Environmental Plan 2011.

Compliance with these instruments is addressed below.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The proposed development is integrated development under Section 4.46 of this Act. The development includes works identified under Section 138 of the Roads Act 1993.

ROADS ACT 1993

Section 138 of the Roads Act 1993 is applicable as the development involves works relating to a classified road. The application was referred to the Transport for NSW and general terms of approval have been provided in the form of deferred commencement conditions of consent.

STATE ENVIRONMENTAL PLANNING POLICY (PLANNING SYSTEMS) 2021

As this proposal has a Capital Investment Value of more than \$30 million, Schedule 6 of this Policy provides that the Sydney Central City Planning Panel is the consent authority for this application.

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 2 – Coastal Management

The site is not identified as being located within the Coastal Zone Footprint, Coastal Management Wetlands, Coastal Management Wetlands 100m Perimeter, Coastal Environment Area or Coastal Use Area.

Chapter 4 – Remediation of Land

Chapter 4 of this Policy requires that the consent authority must consider if land is contaminated and, if so, whether it is suitable, or can be made suitable, for a proposed use. The site has a history of being used a plant nursery.

The applicant has submitted a detailed site investigation report prepared by Geo-Logix Pty Ltd as part of the Development Application. The report concludes that the site contains bonded asbestos, Polyaromatic Hydrocarbons and Petroleum Hydrocarbon impacted soil. A Remediation Action Plan was also submitted with the application. It is noted that the report also concludes that the site can be made suitable for the proposed development subject to the recommendations within the report, the Remediation Action Plan and preparation of a Validation Report following remediation works.

Council's Environmental Health Officer has reviewed the application and raises no objections subject to recommended conditions of consent.

Therefore, in accordance with Chapter 4 of this policy, the land is suitable for the proposed development being a residential development. Relevant conditions of consent are included to ensure that the contamination is appropriately managed.

STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

The application has been assessed against the requirements of State Environmental Planning Policy (Biodiversity and Conservation) 2021. This Policy seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

Clause	Comment
Chapter 2 – Vegetation in non-rural areas - Part 2.3 Council permits for clearing of vegetation in non-rural areas	
Clause 2.6 – Clearing that requires permit or approval	<p>The proposed development involves removal of 39 trees from the site. Council's Tree and Landscape Officer has reviewed the proposal and supports the proposed tree removal for the following reasons:</p> <ul style="list-style-type: none"> • The trees proposed to be removed are largely of low retention value. • There are trees proposed to be removed that are not subject to Council's controls. • The proposal is retaining most of the mature, healthy native trees in the south- eastern corner of the site which will also provide screening and continuity of planting to the adjoining Carlingford Anglican Cemetery.
Chapter 10 – Sydney Harbour Catchment – Part 10.2 Planning Principles	
Clause 10.10 – Sydney Harbour Catchment	The site is not located within the Sydney Harbour Catchment therefore with the exception of the objectives of this clause, this section of the SEPP is not applicable. The proposal is consistent with these objectives.

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

The application is not subject to Clause 2.48 of the SEPP as the development does not propose works within the vicinity of electricity infrastructure however a new padmount substation is proposed. The application was referred to Endeavour Energy who raised no objections.

The application is subject to Clause 2.118 of the SEPP as the site has a frontage to a classified road (Marsden Road). Subject to the conditions recommended by TfNSW, the proposal is consistent with the provisions of this clause.

The application is subject to Clause 2.119 of the SEPP as Marsden Road has a traffic volume of more than 20,000 vehicles and the development includes residential accommodation. An acoustic report was submitted with the Development Application confirming that the proposal can comply with the provisions of this clause.

The application is not subject to Clause 2.121 of this Policy (Traffic Generating Development) as the proposed use is not identified under Schedule 3 – Traffic Generating

Development. Notwithstanding, the application was referred to Transport for NSW (RMS), who did not raise any objection to the proposed development subject to recommended conditions of consent.

STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004

As this application was made prior to the commencement of State Environmental Planning Policy (Housing) 2021, the previous State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 is applicable. An assessment of the proposal against the provisions of this SEPP are provided below.

Clause	Complies
Part 1A Site Compatibility Certificates	
<p>24 Site Compatibility Certificates required for certain development</p> <p>1) This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) if—</p> <p>(a) the development is proposed to be carried out on any of the following land to which this Policy applies—</p> <p>(i) land that adjoins land zoned primarily for urban purposes,</p> <p>(ii) land that is within a zone that is identified as “special uses” under another environmental planning instrument (other than land on which development for the purposes of hospitals is permitted),</p> <p>(iii) land that is used for the purposes of an existing registered club, or</p> <p>(b) the development application involves buildings having a floor space ratio that would require the consent authority to grant consent under clause 45.</p> <p>(1A) Despite subclause (1), this clause does not apply to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing if the proposed development is permissible with consent on the land concerned under the zoning of another environmental planning instrument.</p>	<p>N/A. This clause is not applicable as the site is on land zoned for urban purposes, is not on land identified as “special uses” under and environmental planning instrument and is not on land used for the purposes of an existing club. The development does not involve buildings having a floor space ratio that is required to be granted consent under Clause 45 of this SEPP.</p>
Part 2 – Site related requirements	
<p>26 Location and Access to Facilities</p> <p>(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to—</p> <p>a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and</p> <p>b) community services and recreation facilities, and</p> <p>c) the practice of a general medical practitioner.</p> <p>(2) Access complies with this clause if—</p>	<p>The proposal does not comply with this requirement. A variation to this standard is sought under Clause 4.6 of LEP 2011. An assessment of this variation is provided at the end of this table.</p>

- a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable—
 - i. a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,
 - ii. a gradient of no more than 1:10 for a maximum length of 5 metres at a time,
 - iii. a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time, or
- b) in the case of a proposed development on land in a local government area within the Greater Sydney (Greater Capital City Statistical Area)—there is a public transport service available to the residents who will occupy the proposed development—
 - i. that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and
 - ii. that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and
 - iii. that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive), and the gradient along the pathway from the site to the public transport services (and from the public transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).

27 Bushfire prone land

Yes. The site is not identified as bushfire prone land.

(1) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land identified on a bush fire prone land map certified under section 10.3 of the Act as “Bush fire prone land—vegetation category 1”, “Bush fire prone land—vegetation category 2”, “Bush fire prone land—vegetation category 3” or “Bush fire prone land—vegetation buffer” unless the consent authority is satisfied that the development complies with the requirements of the document titled Planning for Bush Fire Protection, ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, Industry and Environment, dated November 2019.

28 Water and Sewer

(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by

Yes. The proposed development will be connected to a reticulated water system and will have adequate facilities for sewage disposal.

<p>written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.</p> <p>(2) If the water and sewerage services referred to in subclause (1) will be provided by a person other than the consent authority, the consent authority must consider the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure. In locations where reticulated services cannot be made available, the consent authority must satisfy all relevant regulators that the provision of water and sewerage infrastructure, including environmental and operational considerations, are satisfactory for the proposed development.</p>	
<p>29 Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply</p> <p>(1) This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) to which clause 24 does not apply.</p> <p>Note— Clause 24 (1) sets out the development applications to which that clause applies.</p> <p>(2) A consent authority, in determining a development application to which this clause applies, must take into consideration the criteria referred to in clause 25 (5) (b) (i), (iii) and (v).</p> <p>(3) Nothing in this clause limits the matters to which a consent authority may or must have regard (or of which a consent authority must be satisfied under another provision of this Policy) in determining a development application to which this clause applies.</p>	<p>Yes. Clause 24 is not applicable to the proposed development and Clause 29 is therefore applicable.</p> <p>Compatibility of the development with regards to Clause 25(b) (i), (ii) and (iii) is considered as follows:</p> <p><i>(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,</i> The site is located within an established residential area and is not identified as bushfire prone or flood prone.</p> <p><i>(ii) the impact that the proposed development is likely to have on the uses that, in the opinion of the relevant panel, are likely to be the future uses of that land,</i> The proposed use is a residential use that is consistent with the existing residential uses in the locality. The development has been designed with a two-storey built form and is appropriate for the context of the site. The proposal does not inhibit future residential development on the site.</p> <p><i>(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,</i></p> <p>The proposed development includes a number of on-site facilities for the future residents that will service their daily needs including but not limited to a café, salon and gym. Transport options are available for residents wishing to use facilities outside of those available on site.</p>
Part 3 – Design related requirements	
Division 1 General	
30 Site Analysis	Yes. A site analysis was submitted with the application and is satisfactory.

32 Design of residential development	Yes. Consideration has been given to the design principles set out in Division 2 of this SEPP as outlined below.
Division 2 Design Principles	
33 Neighbourhood amenity and streetscape	Yes.
<p>The proposed development should—</p> <p>(a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and</p> <p>(b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and</p> <p>(c) maintain reasonable neighbourhood amenity and appropriate residential character by—</p> <p>(i) providing building setbacks to reduce bulk and overshadowing, and</p> <p>(ii) using building form and siting that relates to the site's land form, and</p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and</p> <p>(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and</p> <p>(d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and</p> <p>(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and</p> <p>(f) retain, wherever reasonable, major existing trees, and</p> <p>(g) be designed so that no building is constructed in a riparian zone.</p>	<p>The site has a cross-fall of 11m from the north-west to south-east corner of the site. The proposed design has been benched to respond to the topography of the site. The result is a number of wings and integrated communal areas that reduce visual bulk.</p> <p>The entrance of the development has been designed to provide a legible address to Marsden Road.</p> <p>The residential character of the locality is maintained through the proposed building envelope, roof design, materials and landscape planting.</p>
34 Visual and acoustic privacy	Yes. The proposed development has been designed to provide adequate side setbacks along the wings of the building which form the predominant bulk of the development. Landscaping has been used to provide screening to adjoining property boundaries. The layout of the development has been designed to minimise overlooking.
<p>The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by—</p> <p>(a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and</p> <p>(b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p>	
35 Solar access and design for climate	Yes. The development has been designed to maximise solar access to resident rooms and

<p>The proposed development should—</p> <p>(a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and</p> <p>(b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.</p>	<p>communal and private open space areas through the use of different levels and a range of useable spaces throughout the site.</p> <p>The proposed lift core is located centrally within the development to allow for efficient circulation and the wing design of the development allows for light and ventilation through the development.</p>
<p>36 Stormwater</p> <p>The proposed development should—</p> <p>(a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and</p> <p>(b) include, where practical, on-site stormwater detention or re-use for second quality water uses.</p>	<p>Yes. The proposal is consistent with the provisions of this clause. Council's Development Engineer has reviewed the proposal and supports the application subject to recommended conditions of consent.</p>
<p>37 Crime Prevention</p> <p>The proposed development should provide personal property security for residents and visitors and encourage crime prevention by—</p> <p>(a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and</p> <p>(b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and</p> <p>(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</p>	<p>Yes. The development has a recognisable entry and is designed to allow for passive surveillance to the street and within the development.</p>
<p>38 Accessibility</p> <p>The proposed development should—</p> <p>(a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and</p> <p>(b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors</p>	<p>Yes. The proposed development has a porte-cochere for the ease of visitors and transportation for the use of residents. Accessibility is maintained throughout the development.</p>
<p>39 Waste Management</p> <p>The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.</p>	<p>Yes. The development provides adequate waste facilities that are appropriate for the development.</p>
<p>Part 4 – Development standards to be complied with</p>	
<p>Division 1 General</p> <p>40 Development standards – minimum sizes and building height</p> <p>1) A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.</p> <p>2) Site size The size of the site must be at least 1,000 square metres.</p>	
<p>Yes. The site area is 12,884m².</p> <p>Yes. The site frontage is 150m.</p>	

3) Site frontage The site frontage must be at least 20 metres wide measured at the building line.	
4) Height in zones where residential flat buildings are not permitted. If the development is proposed in a residential zone where residential flat buildings are not permitted:	Yes. The development is proposed within an R2 Low Density Residential zone where residential flat buildings are not permitted.
<ul style="list-style-type: none"> a) The height of all buildings in the proposed development must be 8 metres or less, and Note. Development consent for development for the purposes of seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height. See clauses 48 (a), 49 (a) and 50 (a). 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. 	<p>The proposed height is 7.5m to the underside of the ceiling. This meets the definition of building height under the subject SEPP which states <i>“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”</i>.</p> <p>The proposal complies.</p>
The proposal complies.	

Part 7- Development standards that cannot be used as grounds to refuse consent

Division 4 Self Contained Dwellings

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 self-contained dwelling (including in-fill self-care housing and serviced self-care housing) 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), or	Yes. The proposed building height is 7.5m as per the building height definition in the SEPP.
b) Density and scale: if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less,	Yes. The proposed density and scale when expressed as floor space ratio is 0.68:1.
c) Landscaped area: A minimum 25 square metres of landscaped area per bed is provided,	A total of 7,386m ² of landscaped area is provided on the site which equates to 45m ² landscaped area per bed. The proposal complies.
d) Parking for residents and visitors: if at least the following is provided—	The proposal comprises of 160 beds which would require the provision of 16 car parking spaces. The proposed development provides 46 car parking spaces. Parking is available on the site suitable for an ambulance.
(i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and	

- (ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and
- (iii) 1 parking space suitable for an ambulance.

CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS

Objectives of Clause 4.6 of Parramatta LEP 2011

The objectives of this clause are as follows:

- *to provide an appropriate degree of flexibility in applying certain development standards to particular development; and*
- *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6(2) states that:

“Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause”.

Consent is sought for the development even though the development contravenes a development standard imposed by State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. The standard sought to be varied is not expressly excluded from this clause.

Clause 4.6(3) states that:

“(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard”.*

A written request under the provisions of Clause 4.6 of Parramatta LEP 2011 was lodged as the proposed development seeks a variation to the following development standards:

Clause 26 – Location and Access to Facilities

The proposal does not comply with this clause for the following reasons:

- The site is not located within 400m of facilities such as shops, bank service providers and other retail and commercial services, community services, recreation facilities and the practice of a general medical practitioner per Clause 26 (1).
- The site is not within 400m of a public transport service available to residents per Clause 26 (2)(b) that would provide connections to facilities under Clause 26 (1).

The nearest precinct which would provide off-site facilities identified in Clause 26(1), is Carlingford Village which is located 550m from the site calculated from the centre of the street frontage. This represents a numerical non-compliance of **150m** to the required 400m proximity under subclause (2)(a).

The applicant has submitted the following justification for the variation to the location and access to facilities requirements:

- *'Access' as defined by the requirements of Clause 26(2)(b) are considered unnecessary in the circumstances of the case given the proposed development would provide suitable services and facilities on-site for the use of residents and would achieve the objective of the Standard, notwithstanding technical non-compliance.*
- *Given the provision of a combination of on-site, supervised private bus services, and direct access to facilities by the proposed development, and the ease of access to these facilities and services, it would be unreasonable and unnecessary in this particular instance to insist on strict compliance with the development standard.*
- *Strict compliance with the Clause would render the application unapprovable and therefore prevent a development typology at the Site which is consistent with the ageing population of the area as demonstrated within the strategic planning framework. This would be contrary to the objects of the EP&A Act, specifically Section 1.3(c) in the promotion of orderly and economic use of land, but also the objective of the SEPP to "encourage the provision of housing (including residential care facilities) that will—(a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability".*
- *The proposed development is a permissible land use within the R2 Low Density Residential zone under the PLEP 2011. Accordingly, the location of the site is considered suitable for a seniors housing development and Clause 26 is considered unnecessary in the circumstances of the case, particularly having regard to the 'high care' residents that this important and bespoke senior's development will specifically and carefully make provision for.*
- *Senior's housing is permissible with consent within the R2 Low Density Residential zone applying to the land. Accordingly, precluding the site entirely from a permissible land use as a result of location is considered unreasonable in the circumstances of the case and not in keeping with the objects of the EP&A Act.*
- *Clause 26 does not consider the type of demographic who will occupy the premises being residents who require 'high care' and would not utilise the provision of a public transport service.*
- *As demonstrated within Australian Nursing Home Foundation Limited v Ku-ring-gai Council [2019] NSWLEC 1205 in the application of the Clause, consideration is to be given to the residents who would utilise the provision of a public transport service. In short, the high care residents of the future RCF would not utilise a public transport service even if it was available.*
- *Additionally, safety concerns are heightened for high care residents who would simply not utilise a public transport service.*
- *The proposed development provides on-site access for facilities identified in Clause 26(1) to cater to the high care residents individual needs including:*
 - *On-site access to medical practitioners and nursing as required for residents;*
 - *On-site access to remote banking professionals when required by residents;*
 - *On-site access to private bus services which will operate daily from 8am to 6pm for residents allowing them to access Carlingford Village and shops within the surrounding area. The provision of a private bus service will be facilitated by the on-site porte cochere which offers safe and accessible method for high-care residents to utilise the service. It is also important to note that these services will be supervised which provide the frail demographic assurance of safety when travelling to and from the Site.*
- *The proposed development is consistent with the underlying objective or purpose of the standard.*
- *Strict compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case as demonstrated.*

Assessment of the exception under Clause 4.6:

In assessing the applicant's request to vary a development standard, the provisions of Clause 4.6 state that:

“(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained”.

In assessing an exception to vary a development standard, the following also needs to be considered:

Is the planning control a development standard?

The planning control, Clause 26 Location and Access to Facilities is a development standard pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

What is the underlying object or purpose of the standard?

The underlying purpose of Clause 26 is to ensure that the location of senior's housing is within a suitable distance to necessary facilities including medical, community, recreational, retail and financial services and facilities.

Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EPA Act?

Strict compliance with the development standard would result in a development that could not be approved as the site is located outside of the 400m radius required. As such, a permissible land use would be precluded from being developed. Compliance with the development standard in this case would hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EPA Act which include the promotion and co-ordination of the orderly and economic use and development of land.

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Compliance with the development standard is unreasonable in the circumstances of the case for the following reasons:

- The proposed development comprises a range of on-site facilities and on-site access to facilities for the use of residents including a gym, salon, medical practitioners, nurses and banking professionals.
- The development is serviced by a private shuttle bus that can be used by residents to access the nearest retail shops in a supervised method of transportation that is safer than public transport, given the demographic of residents in the proposed facility.

Is the exception well founded?

Chief Justice Preston of the NSW Land and Environment Court provided further guidance to consent authorities as to how variations to the standards should be approached. Justice Preston expressed the view that there are 5 different circumstances in which an objection may be well founded:

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

The findings in case *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* indicate that the consent authority must be satisfied that the applicant's written request adequately demonstrates that the compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the contravention; and that the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for the development within the relevant zone.

The applicant's written request demonstrates that compliance with the development standard is unreasonable or unnecessary and provides sufficient environmental planning grounds to vary the development standard. In this respect the Clause 4.6 variation is well drafted.

The proposed non-compliant site location does not defeat the underlying purpose of this clause as the development includes a range of on-site facilities and supervised transportation to facilities located outside of the site, demonstrating that residents will have adequate and safe access to necessary facilities and services.

In this case, the applicant written request is well drafted and adequate in addressing the matters required to be demonstrated by Clause 4.6(3) and the proposed variation is in the public interest as it is consistent with the objectives of the Location and Access to Facilities Buildings Development Standard.

PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2011

The relevant matters to be considered under Parramatta Local Environmental Plan 2011 for the proposed development are outlined below.

Development Standard	Compliance
Clause 2.3 Zone objectives and land use table	Yes. The site is zoned R2 Low Density Residential. The proposed development is defined as a residential aged care facility and is permissible with development consent within the R2 zone. The proposed development is considered to have met the objectives of the R2 Low

	Density Residential zone as the development provides for the needs of residents in a low density environment.
Clause 2.7 Demolition requires development consent	Yes. Consent is sought for the demolition of the existing buildings on the site.
Clause 4.3 Height of Buildings Allowable = 9m Proposed = 10.6m Proposed under the building height definition of the Seniors Housing SEPP = 7.5m	Yes (under Seniors Housing SEPP). The proposal exceeds the maximum building height under the LEP however meets the building height requirements under SEPP (Housing for Seniors or People with a Disability) 2004. The proposed building height is 7.5m (as defined by the SEPP) and compliance with the 8m height limit under the SEPP cannot be used as a reason for refusal.
Clause 4.4 Floor Space Ratio <u>Allowable under the LEP:</u> 0.5:1 Allowable under Seniors Housing SEPP: 1:1 <u>Proposed:</u> 0.68:1 (8,693.94m ²)	Yes (under Seniors Housing SEPP). The proposal exceeds the maximum FSR under the LEP however meets the FSR requirements under SEPP (Housing for Seniors or People with a Disability) 2004. The SEPP states that compliance with an FSR under 1:1 cannot be used as a reason for refusal.
Clause 4.5 Calculation of floor space ratio and site area	The Floor Space Ratio and Site Area has been calculated in accordance with this clause.
Clause 4.6 Exceptions to development standards	N/A. The applicant has submitted a Clause 4.6 variation statement to vary the development standard relating to locational requirements under SEPP (Housing for Seniors or People with a Disability) 2004. An assessment of that variation request is provided earlier in this report.
Clause 5.1A Development on land intended to be acquired for public purposes	N/A. The site is not identified on this map.
Clause 5.6 Architectural roof features	N/A. An architectural roof feature is not proposed.
Clause 5.7 Development below mean high water mark	N/A. The proposal is not for the development of land that is covered by tidal waters.
Clause 5.10 Heritage Conservation	Yes. The site does not contain any heritage items and is not located within a heritage conservation area. The site adjoins a heritage item of local significance (I18 – St Paul's Church Cemetery). Council's Heritage Advisor has reviewed the proposal and considers that the development proposal will not have an adverse impact on the adjoining heritage item for the following reasons: <ul style="list-style-type: none"> The impact of the two storey development will be mitigated by the proposed setback and the retention of trees and landscape along the eastern side boundary which would screen the views from St Paul's Church Cemetery of the proposed two storey buildings.

	<ul style="list-style-type: none"> The curtilage of the adjoining heritage site (I18) comprises the strip of land that from Marsden Road conduce to St Paul's Cemetery. The large setback, the retention of existing tree and vegetation together with the implementation with a new landscape would improve the relationship with the natural and protected environment.
Aboriginal Places of Heritage significance	Yes. The site is identified as Low Aboriginal Heritage Sensitivity.
Clause 5.11 Bush fire hazard reduction	The site is not identified as bushfire prone land.
Clause 5.21 Flood Planning	N/A. The site is not identified by Council as being flood prone.
Clause 6.1 Acid Sulfate Soils	Yes. The site is classified as containing Class 5 Acid Sulfate Soils. The proposed works are not located within 500m of Class 1, 2, 3 or 4 land that is below 5 metres AHD.
Clause 6.2 Earthworks	Yes. The proposal meets the objectives of this clause.
Clause 6.4 Biodiversity protection	N/A. The site is not identified on this map.
Clause 6.5 Water protection	N/A. The site is not identified on this map.
Clause 6.6 Development on landslide risk land	N/A. The site is not identified on this map.
Clause 6.7 Affected by a Foreshore Building Line	N/A. The site is not located in the foreshore area.
Clause 6.12 Design Excellence	N/A. The site is not identified on this map.

9. Draft Environmental planning instruments

DRAFT PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2020

Draft Parramatta LEP 2020 was placed on public exhibition on the 31 August 2020, with exhibition closing on the 12 October 2020. The draft LEP will replace the five existing LEPs that apply within the Local Government Area and will be the primary legal planning document for guiding development and land use decisions made by Council.

LEP	Zoning	Height	FSR
LEP 2011	R2	9m	0.5:1
Draft LEP 2020	R2	9m	0.5:1

Whilst the draft LEP must be considered when assessing this application, under cl4.15(1)(a)(ii) of the Environmental Planning & Assessment Act, the LEP is neither imminent or certain and therefore limited weight has been placed on it.

There are no changes proposed under the draft LEP that amend key development standards applicable to the site. As such, the proposal is consistent with the provisions of this draft LEP in the same manner as the current LEP 2011.

10. Development Control Plans

Parramatta Development Control Plan 2011

The relevant matters to be considered under Parramatta Development Control Plan 2011 for the proposed development are outlined below.

Development Control		Compliance
Part 2 – Site Planning		
2.4.1 Views and Vistas		Yes. The site is not identified as a location for key views and vistas under the DCP.
2.4.2 Water Management		
2.4.2.1 Flooding		Yes. The site is not identified as flood prone however is impacted by overland flows. Council's Development Engineer has reviewed the proposal raises no objection to the proposed development subject to recommended conditions of consent.
2.4.2.2 Protection of Waterways		Yes. The proposal complies.
2.4.2.3 Protection of Groundwater		Yes. The proposal complies.
2.3.3 Soil Management		
2.4.3.1 Sedimentation		Yes. An Erosion and Sediment Control Plan was submitted with the Development Application and conditions of consent ensuring minimisation of soil erosion are included.
2.4.3.2 Acid Sulfate Soils.		Yes. Refer to LEP table.
2.4.3.3 Salinity		Yes. The proposal complies.
2.4.4 Land Contamination		Yes. Refer to body of report.
2.4.5 Air Quality		Yes. The proposal complies. Relevant conditions for air quality are included to ensure no adverse air quality impacts are generated from the development during demolition, construction and ongoing use.
2.4.6 Development on Sloping Land		Yes. The site has a significant cross-fall of approximately 11 metres. Excavation is proposed to respond to the site topography and the development has been designed to step down the site.
2.4.7 Biodiversity		Yes. The proposal complies.
2.4.8 Public Domain		Yes. The proposal satisfactorily addresses the public domain. Council's Public Domain Officer reviewed the proposal and has advised that a full upgrade to the public domain would be required along the street frontage. Conditions of consent are recommended requiring the submission of public domain plans for Council's approval prior to the issue of a Construction Certificate.
Part 3 – Development Principles		
3.1 Preliminary Building Envelope		
3.1.1 Height 2 storeys, 9m		The development is two storeys in height however exceeds 9m. Refer to SEPP and LEP table for further discussion.
3.1.3 Preliminary Building Envelope Tables		
Minimum Site Frontage Control Required = 15m Proposed = 150m		The proposal complies.
Front Setback Control Required = 5-9m, consistent with the prevailing setback Proposed = 3.6m-9.2m		NO, however acceptable on merit. The proposal does not meet the minimum front setback requirements for the western portion of the site. A variation can be considered in this instance for the following reasons: <ul style="list-style-type: none"> The front boundary is irregular in shape and the street frontage contains a bend in the road.

	<ul style="list-style-type: none"> The front setback is generally consistent with the prevailing street setback along Marsden Road. The non-compliance does not result in any significant adverse overshadowing, overlooking or acoustic privacy impacts to the adjoining properties to the west.
Side Setback Control Required = 900mm Proposed = 2.1m-7.5m/12.5m	The proposal complies.
Rear Setback Control Required = 30% of site length Proposed = 4.9m-8.75m	<p>NO, however acceptable on merit. The proposal does not meet the minimum rear setback requirement. A variation can be considered in this instance for the following reasons:</p> <ul style="list-style-type: none"> The non-compliant portion of the development comprises a single storey element and is unlikely to have any adverse impacts in relation to bulk and scale, solar access, visual and acoustic privacy as no windows are proposed along this elevation. The rear setback is consistent with the adjoining rear setback of the development to the west of the site.
<p>Deep Soil: 30% of the site area Required = 3,865.2m² Proposed = 3,875m² (30.8%)</p> <p>Landscaped area: 40% of the site area Required = 5,153.6m² Proposed = 7,386m² (56.86%)</p>	The proposal complies.
3.2 Building Elements	
3.2.1 Building Form and Massing	Yes. The proposed development is broken up into 'wings' which reduce the visual bulk of the development. Single storey building form is used towards the rear of the site in order to respond to the site topography and reduce the visual bulk of the development as viewed from the rear adjoining properties.
3.2.2 Building Facades and Articulation	Yes. Built form modulation, glazing, materials and finishes are used to provide articulation to the building façade and are suitable for the type of development within this locality.
3.2.3 Roof Design	Yes. The proposed roof design is compatible with the prevailing roof form in the street.
3.2.4 Energy Efficient Design	Yes. Energy efficient measures are incorporated within the design.
3.2.5 Streetscape	Yes. The proposal is compatible with the streetscape and presents as a two storey residential style development with identifiable entrance.
3.3 Environmental Amenity	
3.3.1 Landscaping	Yes. A detailed landscape plan has been provided with this application. The landscape plan proposes a planting scheme that references the previous use of the site as a plant nursery, provides for mature vegetation and promotes a scale and density of planting that is suitable for the site. In addition, the

	landscape scheme defines communal open space areas on the site and provides amenity for future residents and staff.
3.3.3 Visual Privacy	Yes. The proposal does not result in adverse overlooking impacts to adjoining properties. Generous side setbacks have been provided for the development and the proposed balconies and communal spaces have been designed to address internal courtyard and landscaped spaces on the site. Landscaping is also proposed to provide additional screening between adjoining properties.
3.3.2 Private and Communal Open Space	Yes. While the DCP does not nominate minimum private and communal open space requirements, the proposed development is consistent with the open space provisions of the Seniors Housing SEPP and sufficient communal and private open space areas have been provided for the use of residents, visitors and staff.
3.3.4 Acoustic Privacy	Yes. An acoustic report was submitted with the Development Application. Council's Environmental Health Officer has reviewed the proposal and raises no objections to the proposed acoustic measures recommended within the acoustic report. Conditions of consent ensuring implementation of acoustic measures are included.
3.3.5 Solar Access and Ventilation	Yes. The proposed development complies with the solar access requirements under the DCP. As a result of the orientation of the site, the primary overshadowing impacts caused by the proposed development are to the street and internally within the site. The submitted shadow diagrams indicate that adjoining properties are able to receive the minimum 3 hours of solar access required under the DCP.
3.3.6 Water Sensitive Urban Design	Yes. Conditions relating to the implementation of WSUD measures are included.
3.3.7 Waste Management	Yes. The submitted Waste Management Plan details the types, volumes and methods of waste disposal for the development during the demolition and construction phase. Conditions of consent are included to ensure waste management measures are implemented.
3.5 Heritage	Yes. The site does not contain any heritage items and is not located within a heritage conservation area. The site adjoins a heritage item of local significance (118 – St Paul's Church Cemetery). Council's Heritage Advisor has reviewed the proposal and considers that the development proposal will not have an adverse impact on the adjoining heritage item as the development has been designed with adequate setbacks and proposed landscaping which will separate the development from the heritage item and provide screening.
3.6 Movement and Circulation	
3.6.2 Parking and Vehicular Access	Yes. Council's Traffic and Transport Engineer has reviewed the proposal and considers the

<p><u>Parking Requirements – SEPP (Housing for Seniors or People with a Disability) 2004</u></p> <p>Residential Care Facilities: Section 48 – Standards that cannot be used to refuse development consent for residential care facilities</p> <ul style="list-style-type: none"> • 1 parking space for each 10 beds in the residential care facility = $1 \times (160 \text{ beds} \div 10) = 16$ • 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time = $1 \times (48 \text{ staff} \div 2) = 24$ • 1 parking space suitable for an ambulance (a porte-cochere arrangement is provided within the front setback). <p>Total = 40 parking spaces Total proposed = 45 parking spaces and one ambulance space</p>	<p>traffic and parking provisions for this development to be suitable.</p>
<p>3.6.3 Movement and Circulation</p>	<p>Yes. Information has been submitted to demonstrate that the proposed movement and circulation within the car park meets Australian Standards and the objectives and controls for this section of the DCP (refer to traffic referral comments in this report).</p>
<p>3.7 Residential Subdivision</p>	
<p>3.7.2 Site Consolidation and Development on Isolated Sites</p> <p>Development for the purpose of residential flat buildings, multi dwelling housing in the form of town houses, villas or the like is not to result in the creation of an isolated site that could not be developed in compliance with the relevant planning controls, including the Parramatta LEP 2011 and this DCP.</p>	<p>Yes. The development does propose any subdivision and does not result in an isolated site.</p>

11. Planning Agreements

The proposal is not subject of a planning agreement.

12. The Regulations

Conditions would have been recommended to ensure the provisions of the Building Code of Australia are satisfied.

13. The likely impacts of the development

Context and setting

The Land and Environment Court planning principle on “compatibility with context” as established in *Project Venture Developments v Pittwater Council* provides the following test to determine whether a proposal is compatible with its context:

Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites?

Response

This proposal will not result in acceptable adverse physical impacts as:

- The design and location of the building will not preclude surrounding land from being developed in accordance with planning controls;
- The proposal will not generate noise or diminish views that would be detrimental to adjacent and surrounding sites; and
- The significance of the heritage item adjoining the site is maintained.

Is the proposal's appearance in harmony with the buildings around it and the character of the street?

Response

This proposal will have a satisfactory relationship with its context for the following reasons:

- The scale, form and presentation of the building is consistent with planning controls, and the design and site planning are acceptable on merit.

14. Site suitability

Subject to the conditions provided within the recommendation to this report the site is suitable for this development given:

- It is an appropriate "fit" for the locality given the preceding analysis which demonstrates a lack of adverse built form and operational impacts; and
- The site attributes are conducive noting natural constraints/hazards; ecological and amenity impacts are able to be properly managed.

15. Submissions

The application was notified and advertised in accordance with Councils consolidated notification procedures for a 21 day period between 1 October and 25 October 2021. During this time, five individual unique submissions were received. The issues raised within the submission are addressed below.

Issue	Response
Acoustic impacts from construction and construction hours	A condition of consent is included requiring the submission of a construction traffic and noise management plan.
Privacy impacts	Privacy and overlooking impacts are discussed within Section 3.3.3 of the DCP table earlier in this report.
Tree removal and impact to vegetation to rear adjoining properties	Council's Tree and Landscape Officer has reviewed the proposal and raises no objections to the proposed tree removal. It is noted that a comprehensive landscape plan comprising additional tree planting is proposed to provide additional screening to rear properties.
Construction traffic and submission of a construction management plan	A condition of consent is included requiring the submission of a construction traffic and noise management plan.

Impact to sight lines from Kay Street	The site is not identified as one containing significant views or vistas within the DCP. It is also noted that due to the topography of the area, any views towards Marsden Road are limited and a permissible two storey development would result in some inevitable view obstruction.
Overshadowing	Overshadowing impacts are discussed within Section 3.3.5 of the DCP table earlier in this report.
Height of development resulting in bulk and scale impacts and obstruction of sight lines	The proposed height of the development complies with the provisions of SEPP (Housing for Seniors or People with a Disability) 2004. It is noted that the development has been stepped down the site to respond to the site topography, a single storey element is proposed to the rear and excavation is proposed to minimise the visual bulk of the development.
Non-compliant rear setback	While the proposed rear setback is non-compliant for a portion of the site, the variation is considered acceptable on merit. Refer to DCP table for further discussion.
Acoustic impacts from car park	The proposed development is considered to have acceptable acoustic impacts. An acoustic report was submitted with the application and endorsed by Council's Environmental Health Officer.
Stormwater drainage across cemetery owned accessway with no existing easement	Council's Development Engineer has reviewed the proposal and is supportive of the development subject to the recommended conditions of consent.

Amended Plans Yes.

Summary of amendments

Amended plans were received during the course of assessment of this application with the following changes:

Amended architectural plans were submitted with the following changes:

- Addition of landscape elements over the car parking area.
- Additional tree planting to the frontage of the south-eastern wing of the development.

Other amended documentation submitted includes:

- Remedial Action Plan.
- Stormwater Plans.
- Landscape Plans.
- Detailed Site Investigation Report.
- Geotechnical Report.
- Stormwater Engineering Statement.
- Traffic Swept Paths.
- 3D Images.
- Food Services Design Compliance Certificate.

In accordance with Page 6 of Appendix 1 Consolidated Notification Requirements of the City of Parramatta Community Engagement Strategy "*Amended Applications*" the application did not require re-notification as the amended application is considered to be substantially the same development and does not result in a greater environmental impact.

CONCILIATION CONFERENCE

On 11 December 2017, Council resolved that:

“If more than 7 unique submissions are received over the whole LGA in the form of an objection relating to a development application during a formal notification period, Council will host a conciliation conference at Council offices.”

Conciliation Conference – Not Required

The application received four unique submissions during the formal notification period and as a result a Conciliation Conference was not required to be held.

16. Public interest

Subject to resolution of the issues as addressed by the recommendation of this report, no circumstances have been identified to indicate this proposal would be contrary to the public interest.

17. Parramatta S94A Contributions Plan (Outside CBD) (Amendment No. 5)

The proposed development is subject to development contributions. A relevant condition of consent pertaining to the payment of Section 7.12 contributions prior to the issue of a Construction Certificate is included within draft conditions of consent.

Summary and conclusion

After consideration of the development against Section 4.15 of the Environmental Planning and Assessment Act 1979, and the relevant statutory and policy provisions, the proposal is suitable for the site and is in the public interest. The proposal is recommended for approval subject to conditions for the following reasons:

1. The development is permissible in the R2 zone and satisfies the requirements of all the applicable planning controls with one exception being non-compliance with Clause 26 – Location and Access to Facilities of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
2. A written request to vary the location and access requirements has been received. The variation sought is minor and will not have any significant adverse impacts. As such, compliance with the standard is unnecessary. Accordingly, Council believes that there are sufficient environmental planning grounds to justify the variation and finds that the application is satisfactory. Council is therefore satisfied that the Applicant's Clause 4.6 variation request has adequately addressed the matters required to be demonstrated in Clause 4.6(3) of Parramatta LEP 2011 and that the proposed development will be in the public interest because it is consistent with the objectives of the location and access to facilities control and the objectives for development within the R2 zone in which the development is proposed to be carried out.
3. The development will not have significant adverse impacts to any adjoining heritage items.
4. The development will be compatible with the emerging and planned future character of the area.
5. For the reasons above, approval of the application is in the public interest.

Recommendation

a) That the Sydney Central City Planning Panel support a variation to Clause 26 – Location and Access to Facilities of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 for the following reasons:

1. A written request to vary the locational requirements for the development has been received and is well drafted.
2. The applicant has provided sufficient environmental planning grounds to warrant departure of the development standard in the circumstances of this case.

a) That the Sydney Central City Planning Panel as the consent authority grant deferred commencement consent to Development Application No. DA/873/2021 for Demolition, tree removal and construction of a 160 bed Residential Care Facility, at 235-237 Marsden Road, Carlingford for a period of five (5) years for physical commencement to occur from the date on the Notice of Determination subject to the conditions in Attachment 1. The reasons for the conditions imposed on this application are as follows:

- i. To facilitate the orderly implementation of the objectives of the Environmental Planning and Assessment Act 1979 and the aims and objectives of the relevant Council Planning Instruments.
- ii. To ensure that local amenity is maintained and is not adversely affected and that adequate safeguards are incorporated into the development.
- iii. To ensure that the development does not hinder the proper and orderly development of the subject land and its surrounds.
- iv. To ensure that the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 are maintained.

b) That the submitter is advised of the decision.