

## SYDNEY NORTH PLANNING PANEL

<b>Panel Reference</b>	PPSSNH-111
<b>DA Number</b>	DA/484/2011/H
<b>LGA</b>	Hornsby Shire Council
<b>Proposed Development</b>	Section 4.56 application to modify sewage management, the design of the community centre, provide a fence adjacent to the southern boundary, re-configure the internal driveway and layout of 15 villas in Stage 1, and to use Villas 1 and 2 as a temporary community centre in Stage 1 and 2 of the development
<b>Street Address</b>	Lot 1 DP 654433, Lot C DP 38865, No. 392 Galston Road & No. 5 Mid-Dural Road, Galston
<b>Applicant</b>	Vigor Master Pty Ltd
<b>Owner</b>	392 Galston Investment Pty Ltd
<b>Date of DA Lodgement</b>	24 October 2019
<b>Number of Submissions</b>	3
<b>Recommendation</b>	Approval
<b>Regional Development Criteria) (Schedule 7 of the SEPP (State and Regional Development) 2011)</b>	SEPP criteria now repealed - Section 4.56 application - original application determined by the JRPP
<b>List of All Relevant s4.15(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979</li> <li>• Environmental Planning and Assessment Regulation 2000</li> <li>• State Environmental Planning Policy No. 55 Remediation of Land</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• State Environmental Planning Policy (Housing for Seniors or People with A Disability) 2004</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (Koala Habitat Protection) 2019</li> <li>• Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 - 1997)</li> <li>• Hornsby Local Environmental Plan 2013</li> </ul>
<b>List all documents submitted with this</b>	<ul style="list-style-type: none"> <li>• Locality Plan</li> <li>• Architectural Plans</li> </ul>

<b>report for the panel's consideration</b>	<ul style="list-style-type: none"> <li>• Landscape Plan</li> <li>• Traffic Noise Impact Assessment</li> <li>• Acoustic Report - Permanent Centre</li> <li>• Acoustic Report - Temporary Centre</li> <li>• Sydney Water Connection Plan</li> </ul>
<b>Report prepared by</b>	Stephen Dobbs
<b>Report date</b>	02 December 2020

### Summary of s4.15 matters

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

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### Legislative clauses requiring consent authority satisfaction

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

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

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### Clause 4.6 Exceptions to development standards

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

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### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.22)? **No**

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

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### 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*

## ASSESSMENT REPORT AND RECOMMENDATION

### EXECUTIVE SUMMARY

- The Section 4.56 application proposes to modify sewage management, provide a fence adjacent to the southern boundary, modifications to the design of the community centre, modifications to the internal accessway, modifications to the layout and design of 15 villas in Stage 1, and to use villas 1 and 2 as a temporary community centre in Stage 1 and 2 of the development.
- The proposal generally complies with *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* and the *Hornsby Development Control Plan 2013*.
- 3 submissions were received opposing the modification.
- It is recommended that the application be approved.

### RECOMMENDATION

THAT pursuant to Section 4.56 of the *Environmental Planning and Assessment Act 1979*, Development Application No. DA/484/2011 for a seniors living development comprising 76 self-care dwellings and a community centre at Lot 1 DP 654433 and Lot C DP 38865, No. 392 Galston Road and No. 5 Mid-Dural Road, Galston be amended as detailed in Schedule 1 of this report.

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On 20 September 2011, the Joint Regional Planning Panel resolved to refuse DA/484/2011.

On 12 January 2012 the Land and Environment Court upheld the appeal against refusal of DA/484/2011 by the Joint Regional Planning Panel and granted a deferred commencement consent, for a seniors living development comprising 76 self-care dwellings and a community centre.

On 27 July 2012 Section a 4.56 Modification (DA/484/2011/A) was lodged to modify conditions relating to wastewater. On 28 August 2012 the application was withdrawn.

On 22 August 2012 Council advised deferred consent conditions were satisfied and the consent effective.

On 5 February 2014 Council approved a Section 4.56 Modification (DA/484/2011/B) for staged development. The approved stages are as follows:

#### Stage 1

- Construction of a community facility and 25 villas, located within the southern half of the site, fronting Galston Road.
- Construction of main internal access roads and paths, vehicular driveway crossings to Mid Dural Road and Galston Road and driveways, pathways within Stage 1.
- Provision of all visitor parking.
- Construction of all trunk services to the site (including water supply, drainage, electricity, telephone and sewer pipes and tanks).
- Construction of the eastern on-site stormwater detention facility.
- Internal services reticulated within Stage 1 to each unit in Stage 1.

- Landscaping of Stage 1 area, including the restoration of Sydney Turpentine Ironbark Forest (STIF) community fronting Mid Dural Road and landscaping to the Mid Dural and Galston Road front setbacks.

#### Stage 2

- Construction of 21 units, located within the northwest portion of the site, fronting Mid Dural Road.
- Construction of internal driveways and pathways within Stage 2.
- Internal services reticulated within Stage 2 to each unit in Stage 2.
- Landscaping of the Stage 2 area.

#### Stage 3

- Construction of 30 villas, located within the northwest portion of the site, fronting Mid Dural Road.
- Construction of the western on-site stormwater detention facility.
- Construction of internal driveways and pathways within Stage 3.
- Internal services reticulated within Stage 2 to each villa in Stage 3.
- Landscaping of the Stage 3 area.

On 3 March 2014 Council approved DA/1021/2013 for the strata subdivision of the approved Seniors Living development as a deferred consent commencement. Additionally, on 3 March 2014 an application under Section 68 of the *Local Government Act 1993* was approved by Council for an onsite sewerage management system (LA/368/22013).

The DA/1021/2013 deferred commencement consent condition is as follows:

*Pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, this consent does not operate until the following information is submitted to Council:*

- a) *Documentation that an occupation certificate has been obtained for all buildings in Stage 1 of the Seniors Living development approved in accordance with the development consent for DA/484/2011 as modified by Council.*

On 30 July 2018 Council approved a 4.56 Modification (DA/484/2011/C) to amend the B1 and B2 Type Dwelling (Stage 1) design and to modify conditions Nos. 8, 12, 17, 19 and 26 relating to site consolidation, services, vehicle crossings and road works.

On 23 August 2018 a Section 4.56 Modification (DA/484/2011D) was lodged to include an additional community centre. On 17 November 2020, the applicant requested the application be withdrawn.

On 14 February 2019, Council approved a 4.56 Modification (DA/484/2011/E) to amend the B1 and B2 Type Dwelling (Stage 1) design.

On 16 November 2018 a 4.56 Modification (DA/484/2011F) was lodged to amend the design of the approved community centre and arrange a temporary centre (for Stage 1 and 2 residents). On 17 November 2020, the applicant requested the application be withdrawn.

On 30 November 2018, a 4.56 Modification (DA/484/2011/G) was lodged to amend B3-B8 type dwellings and construct an additional access road for Stage 1. On 17 November 2020, the applicant requested the application be withdrawn.

On 24 April 2019, Council issued a Development Control (Stop Work) order to modify an earlier Development Control (Stop Work) order issued on 2 April 2019. The orders were in relation to building works occurring prior to compliance with Condition No. 21 (Contaminated Land) and the importation of contaminated fill. The order was subject to an appeal in the Land and Environment Court (*Vigor Master Pty Ltd v Hornsby Shire Council [2020] NSWLEC 1210*). On 12 May 2020, the applicant was ordered by the court to provide Council with a revised Detailed Site Investigation, Waste Removal Plan, Remedial Action Plan and Validation Report. On 3 August 2020, Council approved a Validation Report after remediation works had occurred and the contamination removed.

On 24 October 2019, the subject application (DA/484/2011H) was lodged. On 24 October 2019, Council placed a “stop the clock” on the application until Condition No. 21 of the consent was satisfied or a validation report provided. Upon approval of the Validation report on 3 August 2020, Council recommenced their assessment of the application.

On 1 September 2020, Council requested modifications to the submitted erosion and sediment control plans, architectural plans, civil plans, acoustic report and construction management plan. On 15 September 2020, amended plans were submitted to Council.

On 13 November 2020, Council requested amendments to the architectural plans, sewer plan and construction management plan. On 17 November 2020, amended plans were submitted to Council.

On 1 December 2020, Council requested waste rooms be provided within the temporary and permanent community facility. On 1 December 2020 amended plans were submitted to Council.

## **SITE**

The L shaped site comprises two rural land parcels and has a total area of 3.641ha. The site has a frontage of 132m to the southern side of Mid-Dural Road and a frontage of 101m to the western side of Galston Road.

The majority of the site has been previously cleared for agricultural use. The site is gently sloping and is slightly elevated at the frontages to Galston Road and Mid-Dural Road and through the central part of the site. The majority of the site falls to the western and southern boundaries.

The site includes an existing dwelling house, shed and 10 partially constructed independent living units.

The site forms part of the rural area on the southern side of Galston village. The rural area includes a range of small scale agricultural enterprises including horticulture and grazing. A number of holdings are primarily rural/residential and not used in commercial production. The Galston village is a compact urban area clearly distinct from the surrounding rural area as defined by Galston Road and Mid-Dural Road on the southern side of the village.

The Mid-Dural Road frontage of the subject site is opposite a residential area of Galston.

The site is located 500m west of Galston village shops and 700m north of Galston High School and Galston Park recreation area.

The site includes a small area of remnant bushland along the Mid-Dural Road frontage of the site. The bushland is identified as Sydney Turpentine - Ironbark Forest (STIF) which is an endangered ecological community.

## PROPOSAL

The Section 4.56 application seeks to amend the approved development as follows. It is noted that the majority of the amendments were previously proposed as part of modifications 'D', 'F' and 'G' which have subsequently been withdrawn.

### Modification to the community centre:

The amended community centre would be located in the same location as the approved community centre, however would include a basement level and a more contemporary glass external façade. The centre would comprise the following:

- 18 seat movie room, indoor swimming pool, library, craft room, gym pool room, medical consultation room, hairdresser room and toilets in basement;
- Reception, sitting, recreational areas, kitchen and bar, dining, waste room, meeting and toilets on the ground floor; and
- 5 dedicated car parking spaces and a drop off/pick up area to the front.

The permanent community centre would be constructed in Stage 3 of the development.

### Utilise Villas 1 and 2 as a temporary community centre in Stage 1 and 2:

A 305m<sup>2</sup> temporary community centre is proposed by combining Villa No. 1 and No. 2 for Stage 1 and Stage 2 residents. The Statement of Environmental Effects states that the design of temporary community centre provides all basic amenities required under State legislation and the Site Compatibility Certificate. Additionally, the application has included details of the fit out of a commercial grade kitchen.

The floor plan comprises a dining room, sitting room, gym, change room, 3 toilets, kitchen and meal area, hair dresser, visiting doctor's room, bar, library, and office.

### Modify the design of 15 villas in Stage 1 and modify the accessway serving the 15 villas:

The modification includes amended internal floor plans and external adjustments for 15 x B3-B8 type units (formally E, F, G and J) within Stage 1. The application also proposes an additional accessway located parallel to the northern boundary of the site to serve 8 of the revised villas.

Modifications to the B3-B8 type dwellings include:

- Orientation of the villas from east-west in order to provide each unit with a dedicated front and rear yard,
- Direct vehicle access for all villas from the existing internal accessway and the proposed accessway,
- No changes to the total number of bedrooms and car parking spaces, and
- A net increase in the total floor area of dwellings from 8,175m<sup>2</sup> to 8,596m<sup>2</sup>.

The additional accessway would connect the existing accessway through the site running north-south to the entry of the site at Galston Road. The new accessway would be located 10m from the northern, side boundary and would be 4.5m in width including kerbs.

### Fence

A 1.8m high horizontal slat fence would be installed adjacent to the southern boundary of the site to provide additional privacy to No. 394 Galston Road.

### Sewer

The application includes a letter from Sydney Water dated 10 September 2020 stating a single sewer connection is granted at the rate of 1.0 litre per second. Accordingly, a private waste contractor would now not be required to enter the site with a truck and regularly collect sewage. Overflow sewage would be collected in a reserve tank.

## **ASSESSMENT**

The development application has been assessed having regard to *the Greater Sydney Region Plan, 'A Metropolis of Three Cities', the 'North District Plan'* and the matters for consideration prescribed under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act). The following issues have been identified for further consideration.

### **1. STRATEGIC CONTEXT**

#### **1.1 Greater Sydney Region Plan - A Metropolis of Three Cities and North District Plan**

*A Metropolis of Three Cities* has been prepared by the NSW State Government to guide land use planning decisions to the year 2056. The population of Greater Sydney is expected to grow by 3.2 million people by 2056. The Plan sets a strategy for accommodating Sydney's future population growth and demographic change, while improving liveability.

The NSW Government will use the District planning process to define objectives and set goals for job creation, housing supply and choice in each District. The North District Plan is a 20 year plan to manage growth in the context of economic, social and environmental matters to achieve the 40 year vision for Greater Sydney.

The modification would not result in any changes to the approved dwelling numbers and no further strategic assessment is required.

### **2. STATUTORY CONTROLS**

Section 4.15(1)(a) requires Council to consider "*any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and regulations*".

#### **2.1 Environmental Planning and Assessment Act 1979**

The proposal constitutes an amendment under Section 4.56 of the *Environmental Planning and Assessment Act 1979*, the consent authority may consider an application to amend a development consent provided that:

- (1)(a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) *it has notified the application in accordance with:*
  - (i) *the regulations, if the regulations so require, and*

- (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (c) *it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and*
- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*
- (1A) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

With regard to Section 4.56(1)(a), Council is satisfied that the proposed modification is substantially the same as the development as originally approved. The application as modified would retain the existing 76 dwellings within the approved locations. Further, the modification would not result in reduced building boundary setbacks to adjoining properties.

In accordance with Section 4.56(1)(b), (c) and (d), the amended application was notified in accordance with the Hornsby Community Participation Plan and 3 submissions were received. The matters raised are discussed in Part 5.1 of this report

With regard to Section 4.56(1A), the matters referred to in Section 4.15(1) of the Act are discussed within the body of this report.

## **2.2 Hornsby Local Environmental Plan 2013**

The proposed development has been assessed having regard to the provisions of the *Hornsby Local Environmental Plan 2013 (HLEP)*.

### **2.2.1 Zoning of Land and Permissibility**

The subject land is zoned RU2 Rural Landscape under the *HLEP*. The objectives of the RU2 zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To encourage land uses that support primary industry, including low-scale and low-intensity tourist and visitor accommodation and the provision of farm produce direct to the public.*
- *To ensure that development does not unreasonably increase the demand for public infrastructure services or facilities.*

The approved development is defined as seniors living under the *HLEP* and is prohibited in the zone. Notwithstanding, the subject site adjoins land zoned for urban purposes and seniors living development

is permissible in accordance with the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

The original development consent was granted by the Land and Environment Court and was subject to a Site Compatibility Certificate (SCC). This matter is further discussed in Section 2.4 of this report.

The modification is subject to the provisions of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* which prevails to the extent of any inconsistency with *HLEP*.

### **2.2.2 Height of Buildings**

Clause 4.3 of the *HLEP* provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 10.5m. The proposal complies with this provision with the maximum height of the proposed community centre at 7.5m to the lift overrun.

### **2.2.1 Earthworks**

Clause 6.2 of the *HLEP* states that consent is required for proposed earthworks on site. Before granting consent for earthworks, the consent authority is required to assess the impacts of the works on adjoining properties, drainage patterns and soil stability of the locality.

On 11 November 2020, Council undertook a site inspection and identified steep batter adjacent to the southern side boundary adjoining No. 394 Galston Road. Council raises concerns that this batter may have the potential to erode causing nuisance to No. 394 Galston Road. In this regard, conditions are recommended that the batter be certified by a suitably qualified geotechnical engineer prior to the occupation of Stage 1.

With regard to proposed earthworks, the submitted plans indicates excavation to a depth of approximately 4.6m to facilitate the construction of the basement and swimming pool for the community centre.

Council considers that the excavation is unlikely to cause detrimental impacts on the amenity of adjoining lands, is unlikely to disturb sensitive areas or relics and would not restrict future use of the land. Conditions are recommended regarding excavated materials.

## **2.3 State Environmental Planning Policy No. 55 Remediation of Land**

The application was originally assessed against the requirements of *State Environmental Planning Policy No. 55 (SEPP 55)*. This Policy provides State-wide planning controls requiring that consent must not be granted to the carrying out of development on land unless it has considered whether the land is contaminated or requires remediation for the proposed use.

On 3 August 2020, Council approved a Validation Report stating that the site is clear from contamination and appropriate for residential use. No further assessment is required under the policy.

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

*State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD)* is the overriding planning instrument for the development of housing for aged and disabled people in NSW and provides for hostels, residential care facilities (nursing homes) self-contained dwellings and multi-storey buildings.

*SEPP HSPD* enables development for serviced self-care housing on land that adjoins an urban zone; subject to the site being certified by the Department of Planning as suitable for more intensive development, pursuant to a SCC. The approved development is in accordance with these provisions. An assessment of the modification against relevant provisions of the policy are provided below.

#### **2.4.1 Permissibility and Site Compatibility Certificate**

Clause 4 of *SEPP HSDP* lists the circumstances to which the policy applies. As the policy does not directly apply to RU2 zoned land, the original application relied on a SCC on the basis that the site adjoined land zoned for urban purposes.

Council has previously received legal advice, prepared by Jacinta Reid of Martin Place Chambers with regard to whether a consent authority is required to consider the conditions of an SCC as part of a modification application. The advice notes that the effect of Clause 24 and 25 of *SEPP Seniors* is that once a development consent is issued, the SCC has fulfilled its purpose. Further, it states that there is no requirement for a modification application to refer back to the certificate as Clause 24(2) of *SEPP HSPD* requires the certificate for permissibility of development in a development application, as distinct from a modification application under the Act.

On this basis, an assessment against the original SCC is not required. Notwithstanding, a brief discussion is provided below on several relevant requirements of the original SCC.

- *Development consisting of one storey as proposed;*  
Comment: Modifications to the villas would retain the approved single storey. The proposed community centre would comprise a semi-basement and ground level. The community centre would have the general appearance of a single storey building.
- *Compliance with Clause 50 development standards including private open space;*  
Comment: Compliance with Clause 50 would be maintained.
- *A buffer/setback from all boundaries in accordance with the Development Control Plan;*  
Comment: The amended villas would maintain a side setback of 15m. The proposed driveway would have a setback of 10m. Both are compliant with Part 2.1.2 of the Hornsby Development Control prescriptive measure of 10m.
- *The size of the community facility to be a minimum of 300m<sup>2</sup> and include common dining and recreational facilities.*  
Comment: Both the temporary and permanent community centre would provide a minimum floor area of 300m<sup>2</sup> and provide common dining and recreation facilities.

#### **2.4.2 Clause 32 - Design of Residential Development**

In considering an application for seniors living, a consent authority must not grant consent unless it satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 (Clauses 33 to 39).

##### Clause 33 Neighbourhood amenity and streetscape

A consideration of Clause 33 is for development to recognise and maintain the character of the area.

The proposed modification to the 15 x B3-B8 type villas (formally E, F, G and J) would retain the approved 15m setback to the northern side boundary. The approved design in terms of architectural expression is retained in respect to the traditional cottage style and the rural character of the locality.

The proposed additional driveway to access Villas Nos. 18-25 would have a 10m setback to the northern, side boundary which is compliant with the *HDCCP* control of 10m. Notwithstanding the numerical compliance, the addition of the accessway would effectively reduce the landscaping width to the northern boundary by 5m. On balance the revised unit layout would provide more contemporary private open space areas for each unit and greater amenity to its users. It is considered that a 10m wide landscape strip would be sufficient to screen the retirement village to the northern neighbour at No. 290 Galston Road. The 10m setback area would be heavily landscaped with groundcovers, native trees and shrubs as per the amended landscape plan.

The amended community centre would be contemporary in design with a cement render finish (light brown), flat roof and a predominantly glass façade. Council raises no objections to the contemporary design given the application has demonstrated that it would not be visible from either Galston or Mid Dural Road. The amended community centre would offer greater internal amenity for its users than the original centre as approved.

#### Clause 34 Visual and Acoustic Privacy

With regard to Clause 34, the amended proposal would offer greater internal visual and acoustic privacy for the users of the 15 amended villas as they would have more usable private open space with dedicated back yards. The original design only incorporated small outdoor courtyards. The villas would retain the same 15m setback to adjoining properties.

A 1.8m high horizontal slat fence is also proposed adjacent to the southern boundary of the site to provide greater privacy to the southern adjacent neighbour at No. 394 Galston Road. No objections are raised in this regard as it is noted that the dwellings have been constructed at a higher elevation than the southern adjoining property.

#### Clause 35 Solar Access and Design for Climate

With consideration to Clause 35, the amended villas would achieve sufficient solar access with villas 18-25 having northern facing living rooms and villas 11-12 having northern facing private open space.

#### Clause 36-38

The amended proposal would not require an assessment against Clauses 36-38 (accessibility, crime prevention and stormwater) and would remain as originally approved in this regard.

#### Clause 39 Waste Management

The amended plans include a new access road from which Villas No. 18-25 would be serviced. Given the road width would be 4m excluding kerbs, Council's Waste Branch raises concerns that other vehicles could not pass if a heavy rigid vehicle (HRV) were to service the dwellings. To alleviate any safety concern, Council recommends conditions that the road be one-way only and vehicle travel is restricted to a left-in, left-out arrangement for the dwellings.

Additionally, conditions are recommended regarding the proposed waste rooms within the temporary and permanent community centres with regard to minimum size, door width and path of travel.

### **2.4.3 Clause 40 - Development Standards**

The proposal would maintain compliance with the relevant development standards contained within Clause 40 of *SEPP HSPD*, frontage and height.

#### **2.4.4 Clause 50 - Standards That Cannot be Used to Refuse Development Consent for Self-Contained Dwellings**

Clause 50 of *SEPP HSPD* includes non-discretionary development standards and states “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 discussion is provided below in this regard.

- 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).*

Comment: The development as amended would not exceed 8m in height.

- b) **density and scale:** *if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less.*

Comment: The submitted plans indicate that development as amended would have an FSR of 0.236:1 and comply with the standard.

- c) **landscaped area:** *if -*
- i. *in the case of a development application made by a social housing provider - a minimum 35 square metres of landscaped area per dwelling is provided, or*
  - ii. *in any other case - a minimum of 30% of the area of the site is to be landscaped.*

Comment: The submitted plans indicates that the proposal would comply with the 30% landscaping requirement as approximately 47% total site would be landscaped.

- e) **Solar access:** *if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.*

Comment: The submitted plans indicate that the living rooms of Villas 18-25 and the private open space of Villas 11-17 would receive adequate sunlight between 9am and 3pm during Winter Solstice.

- f) **Private open space for in-fill self-care housing:** *if - in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area.*

Comment: The private open space of each of the amended villas would be larger than 10m<sup>2</sup>.

- g) *(Repealed)*

- h) **Parking:** *if at least the following is provided*
- i. *0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider, or*
  - ii. *1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with, a social housing provider”.*

Comment: The proposed number of car parking spaces is compliant with the standard and would not be amended as part of this application.

## **2.5 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

The revised BASIX Certificate for the amend dwellings has been assessed against the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*. The submitted BASIX Certificate for the proposed modified dwellings is satisfactory.

Modification of condition No. 3 is recommended for inclusion of the approved BASIX Certificates.

## **2.6 State Environmental Planning Policy (Infrastructure) 2007**

The application is subject to assessment under the provisions of the *State Environmental Planning Policy (Infrastructure) 2007*. Given the proposal has a frontage to classified roads being Mid Dural Road and Galston Road.

The development as modified would not result in the increase in the approved number of dwellings and would not alter the approved vehicle crossings. No further assessment is required under the policy.

## **2.7 Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River**

The site is located within the catchment of the Hawkesbury Nepean River. Part 2 of this Plan contains general planning considerations and strategies requiring Council to consider the impacts of development on water quality, aquaculture, recreation and tourism.

Subject to the implementation of sediment and erosion control measures and stormwater management to protect water quality, the amended proposal would comply with the requirements of the Policy.

## **2.8 Clause 3.42 Environmental Planning and Assessment Act 1979 - Purpose and Status of Development Control Plans**

Clause 3.42 of the *Environmental Planning and Assessment Act, 1979* states that a DCP provision will have no effect if it prevents or unreasonably restricts development that is otherwise permitted and complies with the development standards in relevant Local Environmental Plans and State Environmental Planning Policies.

The principal purpose of a development control plan is to provide guidance on the aims of any environmental planning instrument that applies to the development; facilitate development that is permissible under any such instrument; and achieve the objectives of land zones. The provisions contained in a DCP are not statutory requirements and are for guidance purposes only. Consent authorities have flexibility to consider innovative solutions when assessing development proposals, to assist achieve good planning outcomes.

## **2.9 Hornsby Development Control Plan 2013**

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the *Hornsby Development Control Plan 2013 (HDCP)*. A discussion is provided below regarding relevant sections of the plan.

### **2.9.1 Setbacks**

The *HDCP* requires 10m building setbacks to side boundaries. The amended proposal would be compliant in this regard.

The amended buildings would have a northern side setback of 15m which is consistent with the existing approval. The proposed accessway that would serve villas 18 to 25 would have a compliant setback of 10m.

### **2.9.2 Landscaping**

The application includes a modified landscape plan to cater for the slightly reduced northern side boundary setback. The landscape plan also includes a 1.8m high horizontal slat fence along the southern boundary.

Council raises no objections to the amended plans as they still incorporate a range of locally significant trees, along with shrubs and groundcovers. The inclusion of the fence along the southern boundary will aid in visual privacy for the No. 394 Galston Road until planted trees are established given it is located at a lower elevation.

### **2.9.3 Noise**

The application includes an acoustic report for both the temporary and permanent community centres reports given they are located within the direct vicinity of dwellings. The application also includes an acoustic report with respect to the additional driveway located adjacent to the northern boundary of the site.

With regard to the additional driveway, the acoustic report suggests that any noise increase to the adjoining neighbour would be nominal given the 10m setback and no increase in dwelling numbers.

With regard to the temporary community centre, the report recommends the following in order to compliance can be achieved for the adjoining villas:

- No live or amplified music;
- No outdoor areas;
- No night time use;
- Windows and doors remain closed at all times; and
- Acoustic treatment.

With regard to the permanent community centre, the report recommends the following in order to compliance can be achieved for the adjoining villas:

- No live music;
- No outdoor areas be used between 6pm and 7am;
- Community centre be closed between 10pm and 7am;
- Windows and doors remain closed at all times; and
- Acoustic treatment.

The recommendations of the acoustic reports are included as conditions of consent to ensure internal amenity is maintained for the occupants of the villas adjacent to the community centres.

### **2.9.4 Effluent Disposal**

The original developed relied on a pump-out system whereby a truck would be needed to service the site. The application includes a letter from Sydney Water dated 10 September 2020 stating a single

sewer connection is granted at the rate of 1.0 litre per second. The application also includes a sewer diagram with an emergency overflow tank for storage. A private waste contractor is now not required to enter the site with a truck and regularly collect sewage.

In this regard conditions are recommended to be updated to reflect the granting of a sewer connection by Sydney Water.

### **3. ENVIRONMENTAL IMPACTS**

Section 4.15(1)(b) of the Act requires Council to consider *“the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality”*.

#### **3.1 Natural Environment**

##### **3.1.1 Tree and Vegetation Preservation**

The proposed development would not require the removal of additional vegetation no further assessment is required in this regard.

##### **3.1.2 Stormwater Management**

The modifications would not result in significant changes to stormwater management and no further assessment is required in this regard.

#### **3.2 Built Environment**

The proposed modifications would not result in significant changes the approved development in terms of scale or location of dwellings. No further assessment is required in this regard.

#### **3.3 Social Impacts**

It is considered that the amendment would result in a positive social impact by providing a larger community centre and villas with greater internal amenity.

#### **3.4 Economic Impacts**

It is considered that the proposed amendments would not have any economic impact on the locality.

### **4. SITE SUITABILITY**

As discussed in the “Background” section of this report, the site was approved for use as a seniors living development comprising 76 dwellings. The proposed amendments would not necessitate a re-assessment of the site suitability.

### **5. PUBLIC PARTICIPATION**

Section 4.15(1)(d) of the Act requires Council to consider *“any submissions made in accordance with this Act”*.



#### **5.1 Community Consultation**

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 16 November 2019 and 4 December 2019 in accordance with the Notification and Exhibition requirements of the Hornsby Community Participation Plan. During this period, Council

received 3 submissions. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



**NOTIFICATION PLAN**

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
2 SUBMISSIONS RECEIVED OUT OF MAP RANGE			

3 submissions objected to the development, generally on the grounds that:

#### 5.1.1 The development is not substantially the same as the original

Comment: A submission raises concerns that the development is not the substantially the same as the original on the following grounds:

- Ownership of the land has changed; and
- Land contamination.

With regard to ownership of the land, the current, or previous owner of the land have no impact in the assessment of this application.

With respect to land contamination, this matter was dealt with outside the confines of this assessment. As discussed within the “Background” section of this report, Council approved a validation report on 3 August 2020 clearing the site of contamination.

#### **5.1.2 Essential services and Condition No. 45**

Comment: A submission raises concerns that the temporary centre would be able to provide essential services and would not be able to comply with Condition No. 45 which requires the completion of a community centre prior to the completion of Stage 1.

In response to this concern, the application has demonstrated that the temporary community centre is capable of supplying all required essential services and would be greater than 300m<sup>2</sup> as originally required in the SCC.

#### **5.1.3 Community centre inconsistent with Section 4.56 and the SCC**

Comment: Two submissions raise concerns that the amended community centre would not be substantially the same as the original and would not meet the requirements of the original SCC. These matters are addressed in Sections 2.1 and 2.4.1 of this report respectively.

#### **5.1.4 Remediation of Land**

Comment: Two submissions raises concerns with the illegal dumping of contaminated fill. As discussed within the “Background” section of this report, Council approved a validation report on 3 August 2020 clearing the site of contamination. Council considers the site suitable for the proposed development with regard to contamination.

#### **5.1.5 Character**

Comment: A submission raises concerns that the development is inconsistent with the character of the area and could be considered high density development.

In response to this concern, the consent authority is only required to assess the proposed changes to the original development. The modification would not result in any additional dwellings or significance changes to the approved character.

#### **5.1.6 Landscape Plan**

Comment: A submission raises concerns with the clarity of the landscape plan.

In response to this concern, an amended landscape plan has been provided since lodgement. Council considers the amended landscape plan sufficient to determine replacement planting locations. Further, the landscape plan is an amendment of the original approved plan.

#### **5.1.7 Arborist Report**

Comment: A submission raises concerns that the submitted arborist report fails to consider Sydney Turpentine Ironbark Forest (STIF) on the site. In response to this concern, the application as amended would not result in any additional tree removal and no further assessment is required in this regard.

### **5.2 Public Agencies**

The development application was not referred to any Public Agencies for comment.

## 6. THE PUBLIC INTEREST

Section 4.15(1)(e) of the Act requires Council to consider “*the public interest*”.

The public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. Implicit to the public interest is the achievement of future built outcomes adequately responding to and respecting the future desired outcomes expressed in environmental planning instruments and development control plans.

The application as modified is considered to have satisfactorily addressed Council’s and relevant agencies’ criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

## CONCLUSION

The Section 4.56 Application proposes to modify sewage management, the design of the community centre, provide a fence adjacent to the southern boundary, re-configure the internal driveway and layout of 15 villas in Stage 1, and to use Villas 1 and 2 as a temporary community centre in Stage 1 and 2 of the development

The development generally meets the desired outcomes of Council’s planning controls and is satisfactory having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

Council received 3 submissions during the public notification period. The matters raised have been addressed in the body of the report.

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

The reasons for this decision are:

- The proposed modification is considered substantially the same as the original development as approved.
- The proposed modification complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013.
- The proposed modification does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, overshadowing, solar access, amenity or privacy.

Note: At the time of the completion of this planning report, no persons have made a *Political Donations Disclosure Statement* pursuant to Section 10.4 of the *Environmental Planning and Assessment Act 1979* in respect of the subject planning application.

## SCHEDULE 1

<b>Date of 1<sup>st</sup> modification:</b> <b>(DA/484/2011/B)</b>	6 February 2014
<b>Details of 1<sup>st</sup> modification:</b>	Amend consent to allow staged development
<b>Conditions Added:</b>	12A, 16e, 18g, 44f, 44A
<b>Conditions Deleted:</b>	Nil
<b>Conditions Modified:</b>	3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 39, 40, 43, 44, 45, 47, 49, 50, 51, 52, 53, 55, 56, 58, 59, 60, 61
<b>Date of 2<sup>nd</sup> modification:</b> <b>(DA/484/2011/C)</b>	30 July 2018
<b>Details of 2<sup>nd</sup> modification:</b>	To amend the B1 and B2 Type Dwelling (Stage 1) design and to modify conditions Nos. 8, 12, 17, 19 and 26
<b>Conditions Added:</b>	9A, 49A
<b>Conditions Deleted:</b>	Nil
<b>Conditions Modified:</b>	3, 8, 12, 17, 19 and 26
<b>Date of 3<sup>rd</sup> modification:</b> <b>(DA/484/2011/E)</b>	14 February 2019
<b>Details of this modification:</b>	To amend the B1 and B2 Type Dwelling (Stage 1) design
<b>Conditions Added:</b>	Nil
<b>Conditions Deleted:</b>	Nil
<b>Conditions Modified:</b>	3
<b>Date of this modification:</b> <b>(DA/484/2011/H)</b>	
<b>Details of this modification:</b>	Modify sewage management, the design of the community centre, provide a fence adjacent to the southern boundary, re-configure the internal driveway and layout of 15 villas in Stage 1, and to use Villas 1 and 2 as a temporary community centre in Stage 1 and 2 of the development
<b>Conditions Added:</b>	4A, 23A, 27A, 27B, 27C, 27D, 43A, 43B, 49A, 61A, 61B, 61C, 65A, 65B, 65C, 65D, 65E
<b>Conditions Deleted:</b>	52
<b>Conditions Modified:</b>	3, 37, 41, 45, 56, 57, 58

## CONDITIONS OF APPROVAL

### Deferred Commencement Consent

This is a “Deferred Commencement” consent that is granted subject to a conditions under section 80(3) of the *Environmental Planning and Assessment Act 1979* (“EP&A Act”) that the consent is not to operate until the applicant satisfies Hornsby Shire Council (“Council”) as to the matters set out in schedule A below. The period within which the applicant must produce evidence to the Council sufficient enough to enable it to be satisfied as to those matters is 36 months.

If the applicant produces evidence to the Council within the period specified sufficient to enable the Council to be satisfied as to the matters set out in Schedule A below and the Council notifies the applicant in writing that it is satisfied as to the relevant matters, the development consent shall become operative from the date specified in the notice subject to compliance with the conditions set out in Schedule “B” below.

### SCHEDULE A

- a) Documentary evidence must be provided that a licence has been granted under the *Water Industry Competition Act 2006 (WICA)* for the design, installation and operation of the proposed on-site sewerage management system or, alternatively, evidence that a licence is not required by the NSW Independent Pricing and Regulatory Tribunal.
- b) Details of the on-site sewerage management system (WICA approved, if applicable), including but not limited to:
  - i) Scaled site plan of the proposed system including all sewerage infrastructure.
  - ii) Capacity and design specifications of proposed septic and holding tanks.
  - iii) Details and specifications for pump out systems of lift pumps, pump-out lines and the pipe to be used in order to deliver 364 L/min of sullage at the outlets.
  - iv) Details of proposed locations of pump-out point/s and tanker standing location/s a minimum of 3 metres from the centre line of the road and bunding to contain any spillage.
  - v) Details of proposed tanker pump out frequency and procedures for emergency pump out.
  - vi) Method of ensuring connection at a future stage to a reticulated sewerage system.
- c) Documentary evidence must be provided that licence has been granted under the *Water Industry Competition Act 2006 (WICA)* for the design, installation and operation of the proposed water supply system, or alternatively, evidence that a licence is not required by the NSW Independent Pricing and Regulatory Tribunal.
- d) Details and specifications of the water supply system.

*Note: the design of both systems is to ensure that no trees are damaged or removed.*

## SCHEDULE B

### GENERAL CONDITIONS

The conditions of consent within this notice of determination have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the relevant legislation, planning instruments and Council policies affecting the land and does not disrupt the amenity of the neighbourhood or impact upon the environment.

*Note: For the purpose of this consent, the term 'applicant' means any person who has the authority to act on or the benefit of the development consent.*

*Note: For the purpose of this consent, any reference to an Act, Regulation, Australian Standard or publication by a public authority shall be taken to mean the gazetted Act or Regulation, or adopted Australian Standard or publication as in force on the date that the application for a construction certificate is made.*

### 3. Approved Plans and Supporting Documentation

The development must be carried out in accordance with the plans, documentation and staging listed below and endorsed with Council's stamp, except where amended by Council and/or other conditions of this consent. Staging shall be defined as the works encompassed within each area defined as Stage 1, Stage 2 or Stage 3, as set out on staging plan DA\_02D ARC Architects dated September 2013. Stage 1 shall be the first stage to commence construction:

*Approved Plans:*

<b>Plan No.</b>	<b>Plan Title</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Council Reference</b>
A001	Site Plan (DA/484/2011H)	Vigor Master	01/12/2020	
A005	Site Sections (DA/484/2011/H)	Vigor Master	17/11/2020	
B101	Temporary Community Centre	Vigor Master	01/12/2020	
B102	Temporary Community Centre Elevations	Vigor Master	01/12/2020	
D001	Kitchen and Bar Detail	Vigor Master	17/11/2020	
B104	Community Centre Basement Plan	Vigor Master	17/11/2020	
B105	Community Centre Ground Floor Plan	Vigor Master	01/12/2020	
B106	Community Centre Roof Plan	Vigor Master	17/11/2020	
B107	Community Centre Elevations	Vigor Master	01/12/2020	
B108	Community Centre Section	Vigor Master	17/11/2020	
A101	B3 Floor Plan (Unit 12,14)	Vigor Master	17/11/2020	

<b>Plan No.</b>	<b>Plan Title</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Council Reference</b>
A102	B3a Floor Plan (Unit 16)	Vigor Master	17/11/2020	
A103	B4 Floor Plan (Unit 11,13,15)	Vigor Master	17/11/2020	
A104	B5 Floor Plan (Unit 22,24)	Vigor Master	17/11/2020	
A105	B5a Floor Plan (Unit 20)	Vigor Master	17/11/2020	
A106	B6 Floor Plan (Unit 21,23,25)	Vigor Master	17/11/2020	
A107	B6a Floor Plan (Unit 19)	Vigor Master	17/11/2020	
A108	B7 Floor Plan (Unit 18)	Vigor Master	17/11/2020	
A109	B8 Floor Plan (Unit 17)	Vigor Master	17/11/2020	
A201	B3 Elevation & Section	Vigor Master	17/11/2020	
A202	B3A Elevation & Section	Vigor Master	17/11/2020	
A203	B4 Elevation & Section	Vigor Master	17/11/2020	
A204	B5 Elevation & Section	Vigor Master	17/11/2020	
A205	B5A Elevation & Section	Vigor Master	17/11/2020	
A206	B6 Elevation & Section	Vigor Master	17/11/2020	
A207	B6A Elevation & Section	Vigor Master	17/11/2020	
A208	B7 Elevation & Section	Vigor Master	17/11/2020	
A209	B8 Elevation & Section	Vigor Master	17/11/2020	
A002 (Page 1-5)	Landscape Plans	Vigor Master	30/11/2020	
392CC-02	Sewer Layout	Sydney Wide Engineering Consultancy	17/11/2020	
186459WW	Sydney Water Connection Plan -	Sydney Water	05/08/2020	
A002	Erosion & Sediment Control Plan	Vigor Master	22/09/2020	
A003	Erosion & Sediment Control Details	Vigor Master	22/09/2020	
A004	Detail Civil Plan	Vigor Master	22/09/2020	
A005	Site Sections	Vigor Master	22/09/2020	
A006	Site Sections	Vigor Master	22/09/2020	
A007	Site Sections	Vigor Master	22/09/2020	

<b>Plan No.</b>	<b>Plan Title</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Council Reference</b>
A008	Road Long Section & Typical Cross Section	Vigor Master	22/09/2020	
A009	OSD Details - East	Vigor Master	22/09/2020	
A010	OSD Details - West	Vigor Master	22/09/2020	
A011	Drainage Details	Vigor Master	22/09/2020	
B101 - B1	Floor Plan (DA/484/2011/E)	Vigor Master	21.09.2018	
B102 - B1	Elevations & Section (DA/484/2011/E)	Vigor Master	21.09.2018	
B201 - B2	Floor Plan (DA/484/2011/E)	Vigor Master	21.09.2018	
B202 - B2	Elevations & Section (DA/484/2011/E)	Vigor Master	21.09.2018	
DA-01A	<del>Location Site Plan</del>	ARC Architects	May 2011	-
DA-02E	<del>Site Plan - 76 Dwellings</del>	ARC Architects	14.01.2014	D02846376
A001	<del>Site Plan (DA/484/2011/E)</del>	Vigor Master	21.09.2018	
DA-04A	Typical Cluster	ARC Architects	May 2011	-
DA-05A	Typical Roof Plan	ARC Architects	May 2011	-
DA-10A	Street Front Elevations	ARC Architects	May 2011	-
DA-11A	East Boundary Elevations	ARC Architects	May 2011	-
DA-12A	West Boundary Elevations	ARC Architects	May 2011	-
DA-13A	North Elevations The Avenue	ARC Architects	May 2011	-
DA-14A	South Elevations The Avenue	ARC Architects	May 2011	-
DA-15A	Typical Elevations	ARC Architects	May 2011	-
DA-16A	Typical Elevations	ARC Architects	May 2011	-
DA-17	Community Centre	ARC Architects	May 2011	-
DA-17A	Community Centre	ARC Architects	May 2011	-
DA-18A	Sections SA & SB	ARC Architects	May 2011	-
DA-19A	Sections C & D	ARC Architects	May 2011	-
DA-30A	Dwelling A1	ARC Architects	May 2011	-
DA-31A	Dwelling A2	ARC Architects	May 2011	-
DA-34A	Dwelling C1	ARC Architects	May 2011	-
DA-35A	Dwelling C2	ARC Architects	May 2011	-

<b>Plan No.</b>	<b>Plan Title</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Council Reference</b>
DA-36A	Dwelling D	ARC Architects	May 2011	-
DA-37A	DA-37A Dwelling E	ARC Architects	May 2011	-
DA-38A	DA-38A Dwelling F	ARC Architects	May 2011	-
DA-39A	DA-39A Dwelling G	ARC Architects	May 2011	-
DA-40A	DA-40A Dwelling H	ARC Architects	May 2011	-
DA-41A	DA-41A Dwelling I	ARC Architects	May 2011	-
DA-42A	DA-42A Dwelling J	ARC Architects	May 2011	-
DA-02D	<del>Staging Plan Rev E -</del> Coloured Plan (Staging) & Uncoloured Plan (Unit Numbering)	ARC Architects	14.01.2014	D02846376
DW 100 Rev A	Water System Cover Sheet and Notes	Martens & Assoc. Pty Ltd	13.12.12	D02846365
DW 101 Rev A	Water Services Layout	Martens & Assoc. Pty Ltd	13.12.12	D02846365
DW 102 Rev A	Fire Supply & Water Tank Detailed Plan	Martens & Assoc. Pty Ltd	13.12.12	D02846365
DW 103 Rev A	Fire Supply & Water Tank Detailed Plan	Martens & Assoc. Pty Ltd	13.12.12	D02846365
DW 104 Rev A	Typical Water Meter & Connection Requirements	Martens & Assoc. Pty Ltd	13.12.12	D02846365
DW 105 Rev A	Water System Control Schematic	Martens & Assoc. Pty Ltd	13.12.12	D02846365
LS01 F	Landscape Site Plan (as amended for more advanced plantings by order of the Court)	Taylor Brammer	09.05.2011	D05765278
LA02 E	Planting Plan 1-3 (as amended for more advanced plantings by order of the Court)	Taylor Brammer	27.08.2010	D05765278
LA03 E	Planting Plan 2-3 (as amended for more advanced plantings by order of the Court)	Taylor Brammer	09.5.2011	D05765278

<b>Plan No.</b>	<b>Plan Title</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Council Reference</b>
LA04 E	Planting Plan 3-3 (as amended for more advanced plantings by order of the Court)	Taylor Brammer	09.05.2011	D05765278
IE00-C	Civil Drawings Legend	Meinhardt Infrastructure & Environment	05-07-10	-
IE02-D	Erosion & Sediment Control Plan	Meinhardt Infrastructure & Environment	06-05-11	-
IE03-C	Erosion & Sediment Control Details	Meinhardt Infrastructure & Environment	05-07-10	-
IE04-H	Detail Civil Plan	Meinhardt Infrastructure & Environment	10-05-11	-
IE05-F	Site Sections	Meinhardt Infrastructure & Environment	10-05-11	-
IE06-D	Road Long Section	Meinhardt Infrastructure & Environment	05-07-10	-
IE08-D	OSD Details	Meinhardt Infrastructure & Environment	06-05-11	-
IE09-D	OSD Details	Meinhardt Infrastructure & Environment	06-05-11	-
IE10-D	Miscellaneous Details	Meinhardt Infrastructure & Environment	08-07-10	-

*Supporting Documentation:*

<b>Document Title</b>	<b>Prepared by</b>	<b>Dated</b>	<b>Council Reference</b>
Job No. 11074 - Statement of Environmental Effects	Ingham Planning Pty Ltd	May 2011	D01674703

<b>Document Title</b>	<b>Prepared by</b>	<b>Dated</b>	<b>Council Reference</b>
BASIX Certificate No. 314992M_02	-	10 May 2011	D01674698
BASIX Certificate No. 944307M_02	Thermal Performance	23 Oct 2018	D07549155
Arboricultural Impact Assessment	Advanced Treescape Consulting	30/09/2020	D08027938
Acoustic Assessment - Temporary Centre (PKA11395 R04v1)	PKA Acoustic Consulting	12/10/2020	D08027935
DA Acoustic Report - Community Centre (11395 R01 v2)	PKA Acoustic Consulting	1/10/2020	D08027932
Traffic Noise Impact Assessment - Internal Accessway (PKA11395 R01v1)	PKA Acoustic Consulting	25/06/2019	D07793067
Access/Compliance/Clarification Report	PSE Access Consulting	10/11/2018	D07793070
BASIX Certificate No. 982268M	Thermal Performance	30/11/2018	D07793024

#### **4. Removal of Existing Trees and landscape plan requirements**

This development consent only permits the removal of tree(s) numbered 1, 3, 4, 5, Tree 6 (20 trees), 7, 8, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 27 and 35, to be completed with Stage 1, as identified on Appendix 1a (Site Plan with Trees) prepared by Advanced Treescape Consulting dated 13/05/11. The removal of any other trees requires separate approval under Council's Tree Preservation Order. The changes required to the landscape plan are as follows

Amended landscaping plans to be submitted to Council prior to the issue of Stage 1 construction certificate which include larger pot sizes for the lower and mid storey plantings and which give consideration to the appropriate pot sizes for taller trees and whether advanced pot sizes are appropriate and will adapt to the site. Landscaping plan to be prepared with a view to achieving screening as quickly as practical.

#### **4A. Amendment of Plans**

- a) To comply with Council's requirement in terms of waste, the architectural and landscape plans are to be amended as follows:
  - i) The internal access-road serving Villa Nos. 18-25 must be on-way only. The road must travel in a west direction allowing left-in left-out for the villas.
  - ii) The external doorway to the waste room within the permanent community facility must be amended to be 2m wide.

- b) These amended plans must be submitted with the application for the Construction Certificate.

<b>REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE</b>
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**5. Boardwalk design**

A detailed design of the proposed boardwalk to Mid Dural Road is to be submitted to Council prior to the issue of Stage 1 Construction certificate. The boardwalk is to be designed so that there is no adverse impact on existing STIF vegetation and is to include a report from an arborist detailing the materials to be used in constructing the boardwalk and key design features that will be adopted to discourage people leaving the boardwalk and traversing the ground near the STIF vegetation. Lighting is to be designed to ensure there are no adverse impacts to the community and ensure safety by users. The boardwalk shall be completed with Stage 1.

**6. Bin Carting Routes**

There must be no steps along the bin carting route(s) for any of the stages. Only ramps between different levels are acceptable.

**7. Composting Area**

Space must be provided for either individual compost containers for each dwelling or a communal compost container; the siting of which will have regard for potential amenity impacts.

**8. Consolidation - Lodgement of Plan**

Evidence that a plan consolidating the developed lots has been registered with NSW Land Registry Services must be submitted to Council or the nominated accredited certifier prior to the issue of Occupation Certificate (Stage 1).

**9. Building Code of Australia**

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

**9A. Accessibility and Useability Standards**

An accredited access consultant is to certify the dwellings are designed in compliance with the accessibility and useability standards for self-contained dwellings pursuant to Schedule 3 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, prior to the issue of a Construction Certificate for dwelling construction.

**10. Contract of Insurance (Residential Building Work)**

In the case of residential building work for which the *Home Building Act 1989* requires there to be contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work for any of the three stages authorised to be carried out by the consent commences.

*Note: This condition does not apply to the extent to which an exemption is in force under Clause 187 or 188 of the Act, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4) of the Act, or to the erection of a temporary building.*

## **11. Notification of Home Building Act 1989 Requirements**

Residential building work within the meaning of the *Home Building Act, 1989* must not be carried out for any Stage unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notice of the following information:

- a) In the case of work for which a principal contractor is required to be appointed:
  - i) The name and licence number of the principal contractor.
  - ii) The name of the insurer by which the work is insured under Part 6 of that Act.
- b) In the case of work to be done by an owner-builder:
  - i) The name of the owner-builder.
  - ii) If the owner-builder is required to hold an owner-builder's permit under that Act, the number of the owner-builder's permit.

*Note: If the arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notification of the updated information.*

## **12. Water / Electricity Utility Services**

The applicant must submit written evidence of the following service provider requirements prior to the issue of a Construction Certificate in Stage 1:

- a) *Ausgrid* - a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.
- b) *Telstra or NBN Co.* - a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.

*Note: Sydney Water requires s73 applications are to made through an authorised Sydney Water Servicing Coordinator. Refer to [www.sydneywater.com.au](http://www.sydneywater.com.au) or telephone 13 20 92 for assistance.*

### **12A. Water Supply**

The water supply system must be designed generally in accordance with plans prepared by Martens & Associates dated 13.12.12 by an appropriately qualified engineer. Documentation to be provided to the principal certifying agent includes:

- a) Detailed engineering design of the water supply system.
- b) A backup power supply system to operate the booster pump arrangement.
- c) A water supply system operation and management strategy / plan.

The water supply system must be constructed in Stage 1. The water supply connected to the approved dwellings in accordance with the relevant Stage.

*Note: Refer also Condition No. 44A.*

### **13. Retaining and Earthworks**

A plan of all retaining walls over 1000mm and earthworks for each Stage shall be prepared by a chartered geotechnical and structural Engineer prior to the issue of a construction certificate for each Stage.

### **14. Internal Driveway / Vehicular Areas**

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

- a) Design levels at the front boundary be obtained from Council prior to the issue of a Construction Certificate for Stage 1,
- b) The driveway be a rigid pavement.
- c) The driveway grade must not exceed 25 percent and transitions for changes of grade must not exceed 8 percent per plan metre. For driveways and accessways that are traversed by the standard waste vehicle, the requirements of AS2890.2 shall be observed.
- d) The driveway pavement be a minimum 3 metres wide, 0.15 metres thick reinforced concrete with F72 steel reinforcing fabric and a 0.15 metre sub-base.
- e) The pavement has a kerb to one side and a one-way cross fall with a minimum gradient of 2 percent and a kerb inlet pits provided on grade and in low points.
- f) Retaining walls required to support the carriageway and the compaction of all fill batters to be in accordance with the requirements of a chartered structural engineer.
- g) The provision of safety rails where there is a level difference more than 0.3 metres and a 1:4 batter cannot be achieved.
- h) To permit adequate manoeuvring for vehicles, non-through road driveways at least shall incorporate roll top kerbs and kerb inlet drainage control.
- i) Conduit for utility services including electricity, water, gas and telephone be provided.

### **15. Stormwater Drainage General**

The stormwater drainage system for impervious areas at least within the development for all Stages must be designed and constructed for an average recurrence interval of at least 20 years and be gravity drained in accordance with the following requirements:

- a) Connected to the existing internal drainage system and the proposed on-site detention system, draining to a Mid-Dural Road Council controlled pipe drainage system.
- b) All pits are to be benched off to their outlets inverts. Sumps are not required anywhere in the drainage system.

- c) All pits are to be cast in-situ, with integral extended kerb inlets designed and constructed on grade and in sag points.

## **16. On-Site Stormwater Detention**

Two on-site stormwater detention systems must be designed in Stage 1 by a chartered civil engineer and constructed in accordance with the following requirements:

- a) Have capacities and a maximum discharge rates (when full) as set out in Appendix 12 - Civil Engineering Concept Design Report dated 2 July, 2010 by Meinhardt Infrastructure and Environment Pty Ltd.
- b) Have a surcharge / inspection grate located directly above the outlet, and include a grated overflow system for storm events greater than the 20 year average recurrence interval (ARI). Emergency overflow weir systems shall also be designed and constructed for the 100 year ARI and disposed of to the public road.
- c) Discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharged into a larger diameter pipe capable of carrying the design flow to an approved Council system. All pits shall be benched off to their outlets inverts.
- d) The OSD volumes are above ground and the average depth is greater than 0.3 metres, therefore 'pool type' safety fences and warning signs are to be installed.
- e) Engineering plans for the on-site detention basins shall be prepared and approved for construction with the release of a Construction Certificate in Stage 1.

## **17. Mid-Dural Road Drainage**

In order to dispose of stormwater safely from the site, the following works shall be designed and constructed in Stage 1 in accordance with Council's *Design and Construction Specification 2005* at the Applicant's cost:

- a) The eastern side on-site detention system shall be drained with a minimum 375 mm diameter reinforced concrete pipe to an extension of Council's drainage line in the road sag adjacent 390 Galston Road.
- b) The existing Council's drainage pit being connected shall be removed and replaced with Council's standard extended kerb inlet pit and matched to finished surface levels,
- c) The western side on-site detention system shall be drained to a piped drainage system in Mid-Dural Road draining to the west, using Council's standard kerb inlet pits and reinforced concrete pipe. The drainage line shall be extended along the Mid-Dural Road shoulder zone so that access to neighbouring properties is unimpeded and there is adequate fall to allow pipe flows to be deposited safely with a headwall and graded table drain (refer *Design and Construction Specification 2005* and *Rural Road Design, Austroads Inc. 1997, Ch5*).
- d) Pursuant to the *Roads Act 1993*, the road drainage plans must be submitted to Roads and Maritime Services as Roads Authority for consideration and approval prior to release of the Stage 1 Construction Certificate.

## **18. Road Works**

All road works approved under this consent must be constructed in Stage 1 in accordance with Council's *Civil Works Design and Construction Specification, 2005* and the following requirements:

- a) All centre medians, pedestrian refuges, left turn deceleration lanes, road pavement and resealing work, bus shelters and associated shoulder pavement and sealing works to be designed and constructed generally in accordance with the approved plans.
- b) To provide adequate mobility, Council standard 80mm thick concrete footpaths are to be constructed within the road verge across the Mid-Dural and Galston Road frontages of the site and connected with the site's internal pathways.
- c) For safety, the Galston and Mid-Dural Road frontages of the site shall be adequately illuminated with Council's standard luminaires in accordance with AS1158.
- d) Signage, linemarking and services relocation must be shown on the construction plans.
- e) Pursuant to the *Roads Act 1993*, the roads works plans must be submitted to NSW RTA's Sydney Project Services, Parramatta Branch, for consideration and approval prior to release of the Stage 1 Construction Certificate. Lodgement of construction plans with RTA may incur additional fees for inspections, processing costs and performance bonds.
- f) The submission of a compaction certificate from a geotechnical engineer for any fill within road reserves, and all road sub-grade and road pavement materials.
- g) The RTA conditions Nos 66 to 78 must be met at Stage 1.

## **19. Vehicular Crossings**

A separate application under the *Roads Act 1993* must be submitted to Roads and Maritime Services for the installation of two new concrete vehicular crossings and gutter laybacks and the removal of any redundant crossings in Stage 1. The vehicular crossings must be constructed in accordance with the following requirements:

- a) Any redundant crossings to be removed and matched to finished ground levels.
- b) The footway area to be restored by turfing.
- c) The road shoulder adjacent to the crossing to be constructed to match the carriageway, splayed at 45 degrees with a minimum standard shoulder pavement and sealed with 40mm AC10, as required.
- d) Approval obtained from all relevant utility providers that all necessary conduits be provided and protected under the crossing.

## **20. Traffic Control Plan**

A Traffic Control Plan (TCP) must be prepared by a qualified traffic controller in accordance with the *Roads and Traffic Authority's Traffic Control at Worksites Manual 1998 and Australian Standard 1742.3* for all work on a public road for Stage 1 works as required and be submitted to Council. The TCP must detail the following:

- a) Arrangements for public notification of the works.
- b) The footway area to be restored by turfing.
- c) Permanent post-construction signage.
- d) Vehicle movement plans.
- e) Traffic management plans.
- f) Pedestrian and cyclist access/safety.

## **21. Contaminated Land**

- a) A detailed investigation of the proposed development site must be prepared by a suitably qualified environmental consultant prior to the issue of a construction certificate for Stage 1. Such investigation must be undertaken in accordance with NSW Environment Protection Authority's *Contaminated Sites - Guidelines for Consultants Reporting on Contaminated Sites and Sampling Design Guidelines*.
- b) A Remedial Action Plan (RAP) must be prepared by a suitably qualified environmental consultant and submitted to Council should the detailed investigation reveal contamination exceeding criteria prescribed by the NSW Environmental Protection Authority's *Contaminated Sites - Guidelines for the NSW Site Auditor Scheme*.
- c) A validation report must be prepared by a suitably qualified environmental consultant in accordance with the NSW Environment Protection Authority's *Contaminated Sites - Guidelines for Consultants Reporting on Contaminated Sites - Sampling Design Guidelines* validating that the proposed development has been remediated and is suitable for its intended use.

## **22. Bin Placement Areas**

Garden beds, tree and shrub plantings along the main internal road for each Stage must not impinge on the area required to place bins for servicing, being 2 bins per dwelling and allowing minimum 1 metre main internal road frontage per bin and minimum 820mm depth. Only lawn or paving is acceptable within the bin placement areas.

## **23. Bin Storage**

The bin storage area in each garage in all Stages (with minimum internal dimensions of 820mm deep by 2000mm wide) must be in addition to the garage area required by *Australian Standard AS/NZS 2890.1:2004 - Off-street car parking*.

## **23A. Waste Management Details**

A design certificate and detailed plans are to accompany any Construction Certificate application, which demonstrate that the waste storage room within the temporary and permanent community centre complies with the following requirements:

- a) The floor is to be constructed of concrete at least 75mm thick and adequately graded to drain to a Sydney Water approved drainage fitting.
- b) The floor must be finished so that it is non-slip, sealed and impervious, and has a smooth and even surface covered at all intersections.

- c) The walls and any ceilings must be finished with smooth faced non-absorbent material capable of being cleaned.
- d) The room is to be provided with artificial light controllable within the room and adequate ventilation.
- e) The room is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
- f) Liquid waste must be stored in a bund and any spills must not enter the sewer or stormwater. A separate caged area is required within the bin room for the banded oil storage. Similarly, the clinical/medical/sharps waste bin must also be stored within a separate caged area.
- g) The bin storage room must have door(s) wide enough and positioned so that 660L bins can fit through.
- h) The doors are to be robust and lockable (but able to be opened from the inside without a key), with a door opening of the permanent facility must be no less than 2.0m.

*Note that 660L bins are 1370mm wide, 850mm deep, 1260mm high; allow 75 mm between bins for ease of manoeuvring and to avoid damage to walls and doors from bins scraping against them; increase the allowance between bins to 200mm if there are to be brackets on bins for bin tugs.*

## **24. Vegetation Management Plan**

The applicant shall prepare a Vegetation Management Plan (VMP) for the area of Sydney Turpentine Ironbark Forest (STIF) located at the Mid-Dural road frontage prior to the issue of a construction certificate for Stage 1. The plan shall be prepared by a qualified and experienced bush regeneration company and be submitted to Council's Bushland and Biodiversity Team for review prior to approval.

The VMP shall be prepared in accordance with Council's *Guidelines for the preparation of Vegetation Management and Restoration Plans 2008* (available on Council's website) and shall include:

- a) Management and eradication of introduced environmental and noxious weeds including Blackberry, Cotoneaster and *Lantana camara* using approved bush regeneration techniques.
- b) Strategies for the encouragement of natural regeneration on site from the soil seed bank.
- c) Revegetation works, where required, using a diversity of locally indigenous species. Include details of appropriate planting density, source of planting stock, species to be planted, site preparation works, mulching, watering of plants and maintenance of revegetation area.
- d) Use of any topsoil translocation as recommended within the *Flora and Fauna Assessment prepared by Clarke Dowdle and Associates* dated May 2011.
- e) Erosion, sediment and stormwater runoff controls.
- f) Details of any access tracks and other structures (i.e. fencing).

- g) Appropriate map of the site showing all areas to be managed and restored under the Plan.
- h) Schedule of works including timeframes and responsibilities for management actions.
- i) Monitoring, performance criteria and reporting details.
- j) Provide minimum qualifications and experience of contractors implementing the plans.
- k) Linkages to the approved Landscape Plan (*Landscape and Planting Plan - LS01 Issue E & LA03 Issue D prepared by Taylor Brummer Pty Ltd*).
- l) Details of qualification and experience of the company preparing the plan.

The VMP shall be implemented in perpetuity and will require it to be placed on the title of the property (e.g. 88B instrument of the *Conveyancing Act 1919*) in order to ensure compliance beyond the release of the Occupation Certificate for Stages 1, 2 and 3. The initial weed clearing works, revegetation and continued maintenance of the STIF area is undertaken by appropriately qualified persons to ensure the ecological importance of that community is maintained.

## **25. Car Parking and Deliveries**

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

- a) All parking areas and driveways are to be sealed to an all weather standard, line marked and signposted.
- b) Car parking, loading and manoeuvring areas to be used solely for nominated purposes.
- c) Vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads.
- d) All vehicular entry on to the site and egress from the site shall be made in a forward direction.

## **26. Mid-Dural Road Works**

A detailed design for the pedestrian refuge island, bus stops, access driveway and median island on Mid Dural Road as shown on plan No. 103976 IE04 H, be provided to Council and approved by Roads and Maritime Services (RMS) prior to a Construction Certificate in Stage 1. The design of the facilities shall be in accordance with the RMS guidelines, technical directions and Austroads standards.

## **27. Galston Road Works**

A detailed design for the pedestrian refuge island, bus stops, access driveway and median island on Galston Road as shown on plan No. 103976 IE04 H, be provided to council and approved by the RMS prior to a construction certificate for Stage 1. The design of the facilities shall be in accordance with RMS guidelines, technical directions and Austroads standards.

## 27A. Construction Management Plan

To assist in the protection of the public, the environment and Council's assets, a separate Construction Management Plan must be prepared by a suitably qualified environmental consultant in consultation with a qualified traffic engineer and AQF 5 arborist, and submitted to Council's Compliance Team at:

<https://www.hornsby.nsw.gov.au/property/build/applicationforms> for review and approval.

The CMP must include the following details:

- a) A Construction Traffic Management Plan (CTMP) including the following:
  - i) The order of construction works and arrangement of all construction machines and vehicles being used during all stages.
  - ii) The CTMP plans shall be in accordance with all other plans submitted to Council as part of this development proposal.
  - iii) A statement confirming that no building materials, work sheds, vehicles, machines or the like shall be allowed to remain in the road reserve area without the written consent of Hornsby Shire Council.
  - iv) The Plan shall be in compliance with the requirements of the Roads and Maritime Services *Traffic control at work sites Manual 2018* and detail:
    - a. Public notification of proposed works;
    - b. Long term signage requirements;
    - c. Short term (during actual works) signage;
    - d. Vehicle Movement Plans, where applicable;
    - e. Traffic Management Plans;
    - f. Pedestrian and Cyclist access and safety.
  - v) Traffic controls including those used during non-working hours. Pedestrian access and two-way traffic in the public road must be able to be facilitated at all times.
  - vi) Details of parking arrangements for all employees and contractors, including layover areas for large trucks during all stages of works. The parking or stopping of truck and dog vehicles associated with the development will not be permitted other than on the site and the plan must demonstrate this will be achieved.
  - vii) Confirmation that a street 'scrub and dry' service will be in operation during all stages of works.
  - viii) Proposed truck routes to and from the site including details of the frequency of truck movements for all stages of the development.
  - ix) Swept path analysis for ingress and egress of the site for all stages of works.
  - x) Site plans for all stages of works including the location of site sheds, concrete pump and crane locations, unloading and loading areas, waste and storage

- areas, existing survey marks, vehicle entry, surrounding pedestrian footpaths and hoarding (fencing) locations.
- xi) The total quantity and size of trucks for all importation and exportation of fill on site throughout all stages of works, and a breakdown of total quantities of trucks for each stage of works.
  - xii) The number of weeks trucks will be accessing and leaving the site with excavated or imported fill material.
  - xiii) The maximum number of trucks travelling to and from the site on any given day for each stage of works.
  - xiv) The maximum number of truck movements on any given day during peak commuting periods for all stages of works.
  - xv) The source site location of any proposed fill to be imported to the site, for all stages of works.
  - xvi) The Plan must state that the applicant and all employees of contractors on the site must obey any direction or notice from the Prescribed Certifying Authority or Hornsby Shire Council in order to ensure the above.
  - xvii) If there is a requirement to obtain a Work Zone, Out of Hours permit, partial Road Closure or Crane Permit, the Plan must detail these requirements and include a statement that an application to Hornsby Shire Council will be made to obtain such a permit.
- b) A Construction Waste Management Plan detailing the following:
- i) Details of the importation or excavation of soil and fill, the classification of the fill, disposal methods and authorised disposal depots that will be used for the fill.
  - ii) Asbestos management requirement and procedures for removal and disposal from the site in accordance with AS 2601-2001 - *'The Demolition of Structures'*, and the *Protection of the Environment Operations (Waste) Regulation 2005*.
  - iii) General construction waste details including construction waste skip bin locations and litter management for workers.
- d) A Tree Protection Plan (TPP) prepared by an AQF 5 Arborist in accordance with any approved Arboricultural Impact Assessment and tree location plans, detailing the following:
- i) A site plan showing tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and specific details of tree protection measures inclusive of distances (in metres) measured from tree trunks.
  - ii) Construction methodology to avoid damage to trees proposed to be retained during construction works.
  - iii) Specifications on tree protection materials used and methods within the TPZ or SRZ.

- iv) Location of dedicated material storage space on site outside of TPZ's and SRZ's for retained trees.
- e) A Construction Noise and Vibration Management Plan (CNMP) which includes:
  - i) Existing noise and vibration levels within the proximity of the proposed development site.
  - ii) Details of the extent of rock breaking or rock sawing works forming part of the proposed development works.
  - iii) The maximum level of noise and vibration predicted to be emitted during each stage of construction.
  - iv) The duration of each stage of works where the maximum level of noise and vibration are predicted to be emitted for.
  - v) Details of mitigation measures, inclusive of respite periods, that will meet acoustic standards and guidelines at each stage of works.
  - vi) Details of a complaints handling process for the surrounding neighbourhood for each stage of works.
- f) Identification of approved sediment and erosion control measures.
- g) The CMP must detail the contact information for developers, builder, private certifier and any emergency details during and outside work hours.

**27B. Acoustic Treatment and Certification Permanent Community Centre**

Acoustic treatment must be installed for the proposed community centre in accordance with the recommendations contained within the Acoustic Impact Assessment prepared by PKA Acoustic Consulting, dated 1 October 2020 and the following requirements:

- a) All windows to be fixed and inoperable within community centre to control noise emissions from the centre to nearby sensitive receivers.
- b) All glazed elements of the community centre must be minimum Rw 34 and entry doors be minimum Rw 32. The Rw rating is required for the complete glazing and frame assembly. The window glass and frame system are to have a laboratory tested acoustic performance (in accordance with *Australian Standard AS1191 Acoustics - Method for laboratory measurement of airborne sound insulation of building elements*) meeting the requirements.

**27C. Acoustic Treatment and Certification Temporary Community Centre**

Acoustic treatment must be installed for the proposed temporary community centre in accordance with the recommendations contained within the Acoustic Impact Assessment - Temporary Community Centre prepared by PKA Acoustic Consulting, dated 12 October and the following requirements:

- a) All windows to be fixed and inoperable within community centre to control noise emissions from the centre to nearby sensitive receivers.
- b) All windows in the figure the community centre must be minimum Rw 28. This can be achieved by using 5mm laminated thick glass and acoustic seals. The Rw rating is

required for the complete glazing and frame assembly. The window glass and frame system are to have a laboratory tested acoustic performance (in accordance with *Australian Standard AS1191 Acoustics - Method for laboratory measurement of airborne sound insulation of building elements*) meeting the requirements.

#### **27D. Mechanical Equipment**

A mechanical plant noise assessment for all proposed mechanical equipment and site specific equipment must be undertaken by a suitably qualified Acoustic Consultant and a report certifying that the operation of all proposed equipment will not exceed 5dB(A) above background at any boundary upon installation, be submitted to the PCA.

### **REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS**

#### **28. Erection of Construction Sign**

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

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

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

#### **29. Toilet Facilities**

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

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

#### **30. Erosion and Sediment Control**

Erosion and sediment control measures must be provided and maintained throughout the construction period for each Stage in accordance with the manual '*Soils and Construction 2004 (Bluebook)*', the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sediment control devices must remain in place until the site has been stabilised and revegetated.

*Note: On the spot penalties may be issued for any non-compliance with this requirement without any further notification or warning.*

### **31. Tree Protection Barriers**

Temporary tree protection fencing must be erected around trees numbered Tree Group 11 to be retained at a five metre (5m) setback and in accordance with AS 4970-2009 (Section 4).

Temporary tree protection fencing must be erected around the group of trees and significant bushland located at the north, Mid-Dural road frontage of the property trees numbered 52, 51, 50, 49, 48, 47, 46, 45, 44, 43, 42, 41, 40, 39, 38, 37, 36, 35, 34, 33, 32, 31, 29, 28, 26 at a minimum distance of six metres (6m) and in accordance with AS4970-2009 (Section 4) as they relate to each stage.

The tree fencing must be constructed of 1.8 metre 'cyclone chainmesh fence' and maintained for the duration of the construction of Stages 1 and 2 of the development.

*Note: A certificate from a qualified Arborist is to be submitted to the Principal Certifying Authority stating that all tree protection measures are in accordance with AS 4970-2009 (Section 4) prior to commencement of works. The Arborist report is to specify the time the tree protection fencing is to be left in place for.*

## **REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION**

### **32. Construction Work Hours**

All work on site (including demolition and earth works) must only occur between 7am and 5pm Monday to Saturday.

No work is to be undertaken on Sundays or public holidays.

### **33. Tree Protection Barriers**

All required tree protection measures are to be maintained in good condition for the duration of the construction period for each Stage.

All works (including driveways and retaining walls) within six metres (6m) of any trees required to be retained (whether or not on the subject property, and pursuant to this consent or the *Tree Preservation Order*) must be carried out under the supervision of an 'AQF Level 5 Arborist' and a certificate submitted to the principal certifying authority detailing the method(s) used to preserve the tree(s).

*Note: Except as provided above, the applicant is to ensure that no excavation, including sub-surface trenching for stormwater or other services or the Aerated Waste-water Treatment System (AWTS), filling or stockpiling of building materials, parking of vehicles or plant, disposal of cement slurry, waste water or other contaminants is to occur within the Tree Protection Zone (Advanced Treescape Consulting dated May 2011) of any tree to be retained.*

### **34. Bushland Protection During Construction**

To ensure the protection of bushland during construction, the applicant must ensure the following:

- a) The installation of 1.8 metre high chain wire fencing at a minimum distance of six metres (6m) from the significant bushland located at the north, Mid-Dural road frontage of the property for Stages 1 and 2.

- b) The northern end of the property (Mid-Dural Road) shall not be used for vehicle access and egress during construction except on the approved formed road to be completed with Stage 1.
- c) No stockpiling of soils or material within the fenced STIF zone.

*Note: The site contains Sydney Turpentine Ironbark Forest (STIF) which is listed as an 'Endangered Ecological Community' under the 'Threatened Species Conservation Act 1995'. The Act prohibits the disturbance to threatened species, endangered populations and endangered ecological communities, or their habitat, without the approval of the 'Office of Environment and Heritage' where such activities are not authorised by a development consent under the 'Environmental Planning and Assessment Act 1979'.*

*Actions such as tree removal, understorey slashing or mowing, removal of dead trees within this vegetation would likely impact upon this endangered ecological community. Such action would qualify as illegal picking or disturbing the habitat and could render any person who carried out such action as LIABLE FOR PROSECUTION*

### **35. Removal of Hollow Bearing Trees**

Prior to the approved removal of hollow bearing trees located within each Stage the applicant is to carry out the following actions to prevent harm to native wildlife:

- a) Ensure the trees are removed in sections by a qualified Tree Surgeon just prior to dusk when roosting animals would be alert and likely to disperse 'naturally' from the site. Ensure that trees are knocked several times (with a hammer etc.) to alert any roosting animals of the possibility of danger. Ensure that all tree hollows are examined prior to and immediately after their removal to ensure roosting animals are free from danger.
- b) WIRES (Wildlife Rescue) volunteers can be contacted on (02) 8977 3333 or Wildlife Services Sydney Metropolitan volunteers can be contacted on (02) 9413 4300. Information on animal nesting boxes can be gained from WIRES, Kalkari Information Centre in Kuring-Gai Chase National Park, or Birds Australia web site - [www.birdsaustralia.com.au](http://www.birdsaustralia.com.au)

### **36. Environmental Management**

The site must be managed in accordance with the publication '*Managing Urban Stormwater - Landcom (March 2004)*' and the *Protection of the Environment Operations Act 1997* by way of implementing appropriate measures to prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction of each Stage of the development.

### **37. Street Sweeping**

To protect the surrounding environment, Street sweeping must be undertaken following sediment tracking from the site along Mid-Dural Road and Galston Road during works and until the site is established.

The street cleaning services must undertake a street 'scrub and dry' method of service and not a dry sweeping service that may cause sediment tracking to spread or cause a dust nuisance.

**38. Council Property**

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

*Note: This consent does not give right of access to the site via Council's park or reserve. Should such access be required, separate written approval is to be obtained from Council.*

**39. Earthworks**

A certificate shall be submitted by a suitably qualified chartered geotechnical engineer for each Stage certifying the fill has been compacted in accordance with Council's Design and Construction Specification 2005.

**40. Disturbance of existing Site**

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

**41. Landfill**

- a) Prior to fill material being imported to the site, a Waste Classification Certificate shall be obtained from a suitably qualified environmental consultant confirming the fill wholly consists of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material approved under the NSW Environment Protection Authority's Resource Recovery Orders and Exemptions.
- b) The required Waste Classification Certificate must be obtained by the Principal Contractor prior to fill being imported to the site and made available to Council at its request.
- c) A compaction certificate is to be obtained from a geotechnical engineer verifying that the specified compaction requirements have been met.

**42. Excavated Material**

All excavated material removed from the site must be classified by a suitably qualified environmental consultant in accordance with the NSW Environment Protection Authority's *Waste Classification Guidelines* and *Protection of the Environment Operations (Waste) Regulation 2014* prior to disposal to a licensed waste management facility. Tipping dockets for the total volume of excavated material that are received from the licensed waste management facility must be provided to the principal certifying authority prior to the issue of an Occupation Certificate.

**43. Waste Management Plan**

Demolition work and construction of all Stages of the development must be carried out in accordance with a Waste Management Plan prepared in accordance with Council's Waste Minimisation and Management Development Control Plan and Guide for the Demolition Stage (Section One) and the Construction Stage (Section Three) of the development.

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

Refer also to Condition No. 49.

#### **43A. Compliance With Construction Management Plan**

The Council approved Construction Management Plan must be complied with for the duration of works, unless otherwise approved by Council.

#### **43B. Unexpected Finds**

Should the presence of asbestos or soil contamination, not recognised during the application process be identified during any stage of works, the applicant must immediately notify the PCA and Council.

### **REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION OR SUBDIVISION CERTIFICATE**

#### **44. Services to be provided by Retirement Village**

The applicant must demonstrate that there are contracts in place which require the retirement village operator to provide on-site services to the development prior to the issue of an occupation certificate for Stage 1 as follows:

- a) The operator of the retirement village must provide on-site meals, cleaning services, home maintenance, transport, personal care, access to emergency medical care and nursing care to residents of the development who require those services. Those services are to be provided for the life of the development.
- b) The operator of the retirement village must implement a Management Plan for the provision of on-site services that details the following:
  - i) The name and contact details of the service provider and the person to be contacted concerning the provision of the service.
  - ii) The extent and range of the services to be provided and the cost for the provision of those services.
  - iii) The details of accreditation for the service providers and the contract period for the service delivery.
  - iv) The method of delivery, hours for the provision of the service and the expected timeframes for service provision.
  - v) The details of service provision for 24 hour emergency contact.
- c) A copy of the Management Plan is to be made available to all residents of the development and is to be kept updated by the operator of the retirement village for any change to the Plan.
- d) A caretaker is to be contracted for the ongoing maintenance and operation of the development including the waste water management system and the water supply system, as part of the Management Plan or registered strata by-laws.
- e) The Management Plan must be in place prior to the issue of an Occupation Certificate.

- f) A suitably qualified person is to be contracted for servicing the water supply system in accordance with manufacturers and suppliers specifications. The water supply system must be certified accordingly every 12 months.

#### **44A. Water Supply System**

The operator of the retirement village must ensure that the site's water supply system is constructed and operated in accordance with relevant Australian Standards. The following requirements relate to the water supply system:

- a) The water supply system is to include a potable supply system and a fire management system.
- b) The potable supply system is to include the following key components:
  - i) Sydney water supply mains connection.
  - ii) On-site storage reservoir with a minimum of 1 days peak potable water demand.
  - iii) Booster pump and control system to ensure adequate water pressure reaches all residential areas of the site in accordance with relevant Australian Standards. The control system should include suitable alarms which actuate when a pump failure occurs or a when water level reaches < 5 % capacity in the storage reservoir.
- c) The fire management system is to include the following key components:
  - i) Sydney water supply mains connection.
  - ii) On-site storage reservoir with a minimum of 4 hours supply at 10 L/s.
  - iii) A separate 100 mm minimum diameter supply main.
  - iv) A hydrant system spaced in accordance with relevant Australian Standards.
  - v) Booster pump and control system to ensure adequate water pressure reaches all hydrants. The control system should include suitable alarms which actuate when a pump failure occurs or a when water level reaches < 5 % capacity in the storage reservoir. The booster pump can be either the same pump as the water supply system or a separate pump.
- d) At completion of construction of the water supply system, a system operators manual shall be prepared and annexed to the Management Plan (refer Condition No. 44).
- e) The water supply system shall be serviced in accordance with manufacturers and suppliers specifications and shall be certified annually by a suitably qualified professional. Tanks should be dewatered and cleaned at a frequency not less than 10 years.

#### **45. Community Centre**

- a) The approved temporary community centre must be completed and ready for occupation prior to the issue of an occupation certificate for Stage 1 (including an interim occupation certificate) for any dwelling within the development.

- b) The approved community centre must be completed and ready for occupation prior to the issue of an occupation certificate for Stage 3 (including an interim occupation certificate) for any dwelling within the development.

#### **46. Fulfilment of BASIX Commitments**

The applicant must demonstrate the fulfilment of BASIX commitments pertaining to the development.

#### **47. Sydney Water - s73 Certificate**

A s73 Certificate must be obtained from *Sydney Water* in Stage 1.

#### **48. Damage to Council Assets**

Any damage caused to Council's assets as a result of the construction of the development at any Stage must be rectified in accordance with Council's written requirements and at the sole cost of the applicant.

#### **49. Creation of Easements**

The following matter(s) must be nominated on the plan of subdivision under s88B or s88E of the *Conveyancing Act 1919* in Stage 1:

- a) The creation of an appropriate "*Positive Covenant*" and "*Restriction as to User*" over the constructed on-site detention/retention systems and outlet works, within the lots in favour of Council in accordance with Council's prescribed wording. The position of the on-site detention system is to be clearly indicated on the title.
- b) To register the OSD easement, the restriction on the use of land "*works-as-executed*" details of the on-site-detention system must be submitted verifying that the required storage and discharge rates have been constructed in accordance with the design requirements. The details must show the invert levels of the on site system together with pipe-sizes and grades. Any variation to the approved plans must be shown in red on the "*works-as-executed*" plan and supported by calculations.
- c) Implementation of the VMP as required under condition 24.
- d) The creation of an appropriate "Positive Covenant" and "Restriction As To User" over the land ensuring that each dwelling is occupied by persons who satisfy the provisions of Clause 8 or 9 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
- e) For the purposes of waste collection, an easement entitling Council, its servants and agents and persons authorised by it to enter upon the subject land and to operate thereon, vehicles and other equipment for the purposes of waste collection must be granted to Council by the owner of the land.

*Note: The easement must be in a form prescribed by Council and must include covenants to the effect that parties will not be liable for any damage caused to the subject land or any part thereof or to any property located therein or thereon by reason of the operation thereon of any vehicle or other equipment used in connection with the collection of waste and to the effect that the owner for the time being of the subject land shall indemnify the Council, its servants, agents*

*and persons authorised by it to collect waste against liability in respect of any such claims made by any person whomsoever.*

*Note 2: Council must be nominated as the authority to release, vary or modify any easement, restriction or covenant.*

#### **49A. Restriction on Occupation - Housing for Seniors or People with a Disability**

A restriction as to user must be created under s88E of the *Conveyancing Act 1919* and registered, requiring the dwellings approved under this consent to be solely used for the accommodation of:

- a) Seniors (55+ age) or people with a disability;
- b) People who live within the same household as seniors or people with a disability; and
- c) Staff employed to assist the administration and provision of services to housing provided under *SEPP (Housing for Seniors or People with a Disability) 2004*.

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

#### **50. Works as Executed Plan**

A works-as-executed plan(s) as they relate to each Stage must be prepared by a registered surveyor and submitted to Hornsby Shire Council for completed road pavement, kerb and gutter, public assets and drainage systems, signage, markings, driveways and on-site detention systems. The plan(s) must be accompanied by a certificate from a registered surveyor certifying that all pipelines and associated structures lie wholly within any relevant easements.

#### **51. Site Remediation Verification**

The applicant must provide documentation from a suitably qualified environmental consultant verifying that each of the site Stages has been remediated in accordance with the NSW Environment Protection Authority's Contaminated Sites - Guidelines for Consultants Reporting on Contaminated Sites, the Contaminated Sites - Sampling Design Guidelines Contaminated Sites - Guidelines for the NSW Site Auditor Scheme and the recommendations of the Remedial Action Plan, prior to the issue of an occupation certificate for each Stage.

#### **52. ~~Wastewater System Approval~~**

~~An on-site sewage management system, separately approved under the Local Government Act 1993, must be installed, commissioned and certified by a licensed plumber in accordance with Australian Standard 1547 - Onsite Domestic Wastewater Management (2000) and Environment & Health Protection Guidelines - Onsite Sewage Management for Single Households (1998), prior to the issue of an occupation certificate for Stage 1.~~

#### **53. Certification for Waste Management**

A report(s) must be prepared by the principal contractor and submitted to the principal certifying authority prior to the issue of the Subdivision/Occupation Certificate for each Stage, certifying that:

- a) A comparison of the estimated quantities of each waste type against the actual quantities of each waste type has been made;
- b) Any deviations from the Waste Management Plan (including, but not limited to, types of waste, quantities of waste, destinations of waste, reuse and recycling achieved) have been explained;
- c) All waste was taken to site(s) that were lawfully permitted to accept that waste;
- d) Either
  - i) The Waste Management Plan Section One - Demolition Stage and Section Three - Construction Stage were implemented and at least 60% waste generated was reused or recycled; or
  - ii) If the 60% diversion from landfill was not achieved in the Demolition Stage and/or Construction Stage, the Report is to include the reasons why this occurred and certify that appropriate work practices were employed in the demolition and construction stages to implement the Waste Management Plan.
- e) The Report(s) is based on documentary evidence (i.e. tipping dockets/receipts from recycling depots, transfer stations and landfills, audits of procedures, Licence and/or development consent of site(s) receiving waste, etc) which have been attached to the Report.
- f) The author(s) of the report declared that the report is true in every particular and is not misleading.

#### **54. Waste/Recycling Cupboard**

Each dwelling/kitchen must be provided with an indoor waste/recycling cupboard for the interim storage of a minimum one day's waste/recycling generation with separate containers for general waste and recyclable materials.

#### **55. Completion of Landscaping**

A certificate must be provided by a practicing landscape architect, horticulturalist or person with similar qualification and experience certifying that all required landscaping works for each Stage have been satisfactorily completed in accordance with the approved landscape plans.

#### **56. Food Premises**

The fit out and operation of any part of the temporary and the permanent community building forming part of Stage 1 and Stage 3 works to be used for the manufacture, preparation or storage of food for sale, must be in accordance with *Australian Standard 4674-2004 - Design and fit out of food premises*, *The Food Act 2003*, and the *Food Regulation 2004*.

*Note: Reference should also be made to the Food Safety Standards and the 'Safe Food Australia - A Guide to the Food Safety Standards 2<sup>nd</sup> Edition January 2001'.*

#### **57. Grease Trap Installation**

A permanent grease trap must be installed for all community centre kitchen wastewater in accordance with the requirements of *Australian Standard 3500 1998*, *National Plumbing Code*.

A licensed plumber must submit a Certificate of Compliance to the principal certifying authority certifying that all plumbing and drainage works have been carried out in accordance with the prescribed standards.

**58. Kitchen Exhaust Installation**

A kitchen exhaust system for the temporary and the permanent community building forming part of Stage 1 and Stage 3 must be designed and installed to effectively prevent air pollution in accordance with the *Protection of the Environment Operations Act 1997*.

**59. Works in Galston Road**

Central median islands and pedestrian refuges are to be constructed in Galston and Mid-Dural Roads subject to detailed design and approval process by the RTA and Council and shall be completed prior to the issue of an occupation certificate for Stage 1.

**60. Works in Mid-Dural Road**

Bus stops with bus shelters and connecting footways are to be constructed in Galston and Mid-Dural Roads, subject to detailed design and approval process by the RTA and Council and shall be completed prior to the issue of an occupation certificate for Stage 1.

**61. s94 Infrastructure Contributions**

The payment to Council of a contribution of \$716,470.95 for 76 additional dwellings towards the cost of infrastructure identified in Council's *Development Contributions Plan 2007-2011*. Staged prorate payment to be made for the equivalent number of dwellings for Stage 1, Stage 2 and Stage 3 prior to the issue of an occupation certificate for the respective Stage.

*Note: The contribution is calculated at the rate of \$9,953.56 x 76 Seniors House dwellings and includes a credit of \$40,000 for the site's two existing allotments as calculated at the 19 October 2011. The contribution will be adjusted from this date in accordance with the underlying consumer price index for subsequent financial quarters.*

*It is recommended that you contact Council to confirm the value of the contribution prior to payment.*

**61A. Earthworks Certification**

Certification must be obtained from an appropriately qualified and registered professional geotechnical engineer prior to the issue of an Occupation Certificate for Stage 1 that the batter fill adjacent to the southern boundary of the site is structurally adequate and stable. Any remediation or revegetation works required must be completed and certified prior to the issue of the Occupation Certificate Stage 1. All copies of reports must be submitted to Council.

**61B. Acoustic Certification**

On completion of all works and prior to the issue of an Occupation Certificate, the certifier is to be provided with a certificate from a qualified acoustic consultant certifying that all acoustic works have been completed in accordance with the recommendations contained within the Acoustic Impact Assessment - temporary community centre prepared by PKA Acoustic Consulting, dated 12 October 2020, the Acoustic Impact Assessment prepared by PKA Acoustic Consulting, dated 1 October 2020 and this consent.

**61C. Submission of Excavated Material Tipping Dockets to Principal Certifying Authority**

Tipping dockets for the total volume of excavated material that are received from the licensed waste facility must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

<b>OPERATIONAL CONDITIONS</b>
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**62. Noise**

All noise generated by the proposed development must be attenuated to prevent levels of noise being emitted to adjacent premises which possess tonal, beating and similar characteristics or which exceeds background noise levels by more than 5dB(A).

**63. Site Security**

Site security measures implemented on the property, including electronic gates, must not prevent access to the bin collection points by waste removal services.

**64. Commercial Waste**

The community Centre tenants must keep written evidence on site of a valid contract with a licensed waste contractor(s) for the regular collection and disposal of the waste and recyclables that are generated at the Community Centre.

**65. Landscape Establishment and Maintenance - ongoing**

The landscape works must be maintained into the future to ensure the establishment and successful growth of plant material to meet the intent of the landscape design. This shall include but not be limited to watering, weeding, replacement of failed plant material and promoting the growth of plants through standard industry practices.

**65A. Use of the Temporary Community Centre**

- a) No more than 50 patrons are permitted to use the temporary community centre at one time.
- b) No outdoor areas are permitted to be used as a part of the temporary community centre.
- c) Use of the temporary community centre is restricted to between 7am - 9pm.
- d) The use of amplified music equipment and live performances are not permitted.
- e) All windows and entry doors must remain closed during the use of the community centre.
- f) Use of the temporary community centre must cease following the completion of the permanent community centre and the facility be converted back to 2x independent living units.

**65B. Use of the Permanent Community Centre**

- a) Live performances are not permitted to occur within the community centre

- b) Use of the outdoor areas of the community centre is restricted to between 7am - 6pm
- c) Use of the indoor areas of the community centre is only permitted between 7am-9pm
- d) All windows and entry doors must remain closed during the use of the community centre.
- e) Patrons are not permitted to access or utilise the rooftop.

#### **65C. Fire Safety Statement - Annual**

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

#### **65D. Swimming Pool Requirements**

The construction and operation of the swimming pool must comply with the provisions of the *Swimming Pool Act 1992*, the *Swimming Pool Regulation 2008*, *Australian Standards AS1926.1-3 Swimming Pool Safety* and the following requirements:

- a) All waste water from the pool's filtration system must be piped to *Sydney Water's* sewer system. In the event that *Sydney Water's* sewer system is not accessible, a filtration system that does not require backwashing must be installed; and
- b) The filtration motor and pump, or spa heater and blower unit must be housed in a soundproofed structure. Sound from the equipment must not exceed 5(dBA) above ambient noise levels at any residential property boundary.

#### **65E. Internal Access Road (Villa Nos. 18-25)**

The internal access road serving Villa Nos. 18-25 must be one-way only travelling in a westerly direction. The access road must be appropriately signposted and marked as one-way only.

#### **CONDITIONS OF CONCURRENCE - ROADS AND TRAFFIC AUTHORITY**

The following conditions of consent are from the nominated State Agency pursuant to Section 4.13 of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

- 66.** A Road Occupancy Licence should be obtained from the RTA for any works that may impact on traffic flow on Galston Road and Mid-Dural Road during construction activities.
- 67.** Any redundant driveways shall be removed and replaced with a footway.
- 68.** Road traffic noise should be mitigated in accordance with the EPA Environmental Criteria for Road Traffic Noise.
- 69.** The driveways are to be constructed to only allow left in / left out vehicular access to the site.
- 70.** To reinforce the left in / left out vehicular access, a central median must be constructed for a minimum of 15 metres on both sides of the driveway. The central median is to be a minimum of 600mm wide and constructed prior to occupation.

71. The design and construction of the median to be to RTA, Austroads and Australian Standards specifications.
72. The design to be submitted to the RTA for approval prior to the issue of the Construction Certificate.
73. The applicant to provide kerb and gutter to the full frontage of the property on Mid-Dural Road and Galston Road.
74. A footpath is to be provided to the full frontage of the property on Mid-Dural Road and Galston Road.
75. A pedestrian refuge is to be provided on Mid-Dural Road and Galston Road. Design to Austroads and RTA specification. Plans must be submitted to the RTA prior to the Construction Certificate.
76. Bus stops to be provided on both sides of Mid-Dural Road and Galston Road. These stops are to be designed in accordance with Austroads.
77. All signposting on Mid-Dural Road and Galston Road is to be approved by the RTA prior to installation, including but not limited to 'No Stopping' restrictions at the pedestrian refuge and 'Bus Zone' signage.
78. A minimum of two bus shelters must be provided.

**- END OF CONDITIONS -**

#### **ADVISORY NOTES**

The following information is provided for your assistance to ensure compliance with *the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000*, other relevant legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

#### **Environmental Planning and Assessment Act 1979 Requirements**

The *Environmental Planning and Assessment Act 1979* requires:

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

### **Long Service Levy**

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

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

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

### **Tree and Vegetation Preservation**

Hornsby Development Control Plan 2013 Tree and Vegetation Preservation provisions have been developed under Council's authorities contained in *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* and the *Environmental Planning and Assessment Act 1979*.

In accordance with these provisions a person must not cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy the vegetation, lop or otherwise remove a substantial part of the trees or vegetation to which any such development control plan applies without the authority conferred by a development consent or a permit granted by Council.

Fines may be imposed for non-compliance with the *Hornsby Development Control Plan 2013*.

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

### **Disability Discrimination Act**

The applicant's attention is drawn to the existence of the *Disability Discrimination Act 1992*. A construction certificate is required to be obtained for the proposed building/s, which will provide consideration under the *Building Code of Australia*, however, the development may not comply with the requirements of the *Disability Discrimination Act 1992*. This is the sole responsibility of the applicant.

### **Covenants**

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

### **Advertising Signage - Separate DA Required**

This consent does not permit the erection or display of any advertising signs. Most advertising signs or structures require development consent. Applicants should make separate enquiries with Council prior to erecting or displaying any advertising signage.

### **Dial Before You Dig**

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

### **Telecommunications Act 1997 (Commonwealth)**

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

### **Asbestos Warning**

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

[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

[www.adfa.org.au](http://www.adfa.org.au)

[www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)

Alternatively, telephone the *SafeWork NSW* on 13 10 50.

### **House Numbering**

House numbering can only be authorised by Council. Before proceeding to number each premise in the development, the allocation of numbers is required to be obtained from Council's Planning Division. The authorised numbers are required to be displayed in a clear manner at or near the main entrance to each premise.

### **Council Notification - Food Premises**

Prior to the commencement of the business, the operator is requested to contact Council's Environmental Health Team to arrange an inspection for compliance against the relevant legislation and guidelines outlined in this approval.

*Note: Council's Environmental Health Officer can be contacted on 02 9847 6745.*