

SYDNEY NORTH PLANNING PANEL - REPORT

Panel Reference	PPSSNH-215
DA Number	DA/850/2011/B
LGA	Hornsby Shire Council
Proposed Development	Modification to an existing approved Seniors Living development resulting in a development consisting of 88 independent living units, comprising 40 single storey villas and 48 apartments over basement car parking
Street Address	Lot 22 DP 851940 Nos. 330 -334 Galston Road, Galston
Applicant	Planik Pty Ltd
Owner	Galston Land Pty Ltd
Date of DA Lodgement	27 April 2021
Number of Submissions	Four (two in support and two raising concerns)
Recommendation	Approval
Regional Development Criteria (Schedule 7 - SEPP (State and Regional Development) 2011)	General development over \$30 million
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP) • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy No. 55 Remediation of Land • State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 • Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River (No. 2 - 1997) • State Environmental Planning Policy (State and Regional Development) 2011 • Hornsby Local Environmental Plan 2013 • Hornsby Development Control Plan 2013

List all documents submitted with this report for the panel's consideration	<ol style="list-style-type: none">1. Proposed Architectural Plans2. Proposed Landscape Plans3. Urban Design Report4. Civil Plans5. Locality plan
Report prepared by	Matthew Miles - Senior Town Planner
Report date	27 August 2021

Summary of s4.15 matters

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

Legislative clauses requiring consent authority satisfaction

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

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

Clause 4.6 Exceptions to development standards

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

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

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 application is for modification of an approved Seniors Living development resulting in a development consisting of 88 independent living units, made up of 40 single storey villas and 48 apartments over basement car parking. The development includes a leisure facility, internal road network and at-grade visitor parking.
- 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.
- Four submissions have been received in respect of the application, two in support and two by way of objection.
- It is recommended that the application be approved.

RECOMMENDATION

THAT pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, Development Application No. DA/850/2011 for demolition of the existing structures and construction of a seniors living development comprising ~~ninety-six~~ 88 self-contained units ~~dwelling-houses, community~~ leisure facility and ancillary works at Lot 22 DP 851940 Nos. 330 -334 Galston Road, Galston be modified as detailed in Schedule 1 of this report.

BACKGROUND

On 23 February 2013, the Sydney West Joint Regional Planning Panel approved DA/850/2011 (JRPP No. 2011SYW096) for demolition of existing structures and construction of a seniors living development comprising 96 self-contained dwelling-houses and a community facility in 6 stages as follows:

- 38 single storey self-contained dwelling-houses (25x 2-bedroom houses and 13x 3-bedroom houses) including four attached and thirty-four detached houses, single garages for each dwelling with additional car space on the access driveway;
- 58 self-contained units accommodated in 3 apartment blocks (numbered as Blocks A, B and C in the site plan) with car parking located at the basement level. The basements included a total of 58 car spaces. Each block is approved at a maximum two-storeys in height. The approved units included:
 - 42 x 2-bedroom units
 - 16 x 2-bedroom + study units
 - 6 x 3-bedroom units

The development as approved is to occur in 6 stages as follows:

- Stage 1: Construction of thirteen single-storey dwelling-houses within the front section of the site internal roads with garbage truck turning area, waste water pump-out facility and visitors parking spaces. One of the dwelling-houses is to be utilised as the temporary community facility.

- Stage 2: Construction of fourteen single-storey dwelling-houses at the rear including four attached dwellings and internal roads with garbage truck turning area.
- Stage 3: Construction of the community facility on the site. The centrally located community centre is to provide recreation space, medical services, kitchen and dining area. Four visitor car parking spaces including one disabled space are to be located on the western side of the centre.
- Stage 4: Construction of 11 single-storey dwelling-houses at the rear and ancillary roads with garbage truck turning area.
- Stage 5: Construction of apartment Blocks B (14 units) and C (16 units) on the eastern side.
- Stage 6: Construction of apartment Block A with 28 units on the western side.

On 2 November 2016, Council wrote to the applicant stating that the deferred consent commencement condition has been achieved following submission of additional information, and the date from which the consent operates is from 2 November 2016 and the date on which the development consent will lapse is 2 November 2021, being the date that is 5 years after the date from which the consent operates.

The applicant has submitted the following information advising that the existing consent has been physically commenced:

- A Stage 1 Construction Certificate,
- Evidence of demolition of buildings,
- Tree protection works.

On 9 April 2019, the Sydney North Planning Panel refused an application for a revised site compatibility certificate to include the adjoining property at No. 328A Galston Road, Galston into the subject development approval.

On 11 February 2021, DA/850/2011/A for modification of an approved Seniors Living development proposing a development consisting of 85 independent living units, comprising 40 single storey villas and 48 apartments over basement car parking was withdrawn. The application was noted to be progressing positively, however, due to assessment time constraints and timely submission of additional information, was withdrawn on 11 February 2021 to allow for amendments to the previous proposal to address all matters raised during Council's assessment and design amendments.

APPLICATION HISTORY

On 2 June 2021, Council's planning assessment requested additional information which included further details to address pump out sewerage within the road acquisition area, landscape plan to include the number of trees, shrubs and location of plants, floor levels to be detailed of each villa as well as retaining wall details, cross section plans to be provided, clarification if the leisure centre would be used for public use.

In addition, Council's Waste Team requested additional waste storage details to be provided and the Environmental Compliance Team requested additional acoustic details for the leisure centre,

confirmation no fill would be imported to the site as well as submission of a detailed Construction Management Plan.

Transport for NSW (TfNSW) requested further details to support a Heavy Rigid Vehicle entering and leaving the site and submission of swept path plans.

On 7 July 2021, the applicant submitted the requested plans and supporting documents. These plans and supporting documents have been reviewed by Council and the TfNSW and have been deemed acceptable to enable an assessment of the proposed modification.

On 24 August 2021, the applicant submitted an addendum to the acoustic report justifying the hours of operation for the proposed Leisure Centre and submitted details of a temporary community centre to be used during construction of the Leisure Centre.

SITE

The irregular shaped site comprises one rural parcel located on the northern side of Galston Road. The subject property has a total area of 3.71 hectares with a frontage of 209.3 metres to Galston Road.

The current improvements on the site include a dwelling-house with associated structures used for habitable purposes and a large dam. The majority of the site has been cleared for agricultural use and is currently being used as a fruit orchard.

The site slopes gently from the north-eastern corner towards the dam located near the south-western corner. The land then elevates slightly near the south-eastern corner at the Galston Road frontage. The majority of the site falls towards the road and the western boundary.

Council's mapping system indicates that a watercourse traverses the western section of the subject property and drains into the dam. However, the creek is not present on the site. A network of shallow drainage channels drain into the dam and a swale along the western boundary collects runoff from the site and the orchard. The dam water is reused for irrigating the orchard.

The site is accessed via a driveway off Galston Road. The following restrictions apply to the site:

- A 3.5 metre wide right-of carriageway benefitting the site, located on the eastern boundary providing access to Lot 1 DP 601822 at the rear;
- A road widening restriction-as-to-user (J298132 - width varying between 6.3 metres and 10.5 metres) along the frontage of the site, imposed by the NSW Roads and Maritime Services (RMS); and
- A further 15 metre wide restriction-as-to-user (imposed by Hornsby Shire Council vide DP 601822), located at the rear of the RMS reserve, burdens the site along the entire Galston Road frontage and restricts the erection of any buildings or structures.

The total width of the Restricted Development Area is 25 metres from the Galston Road frontage.

The site forms part of the rural area adjoining the eastern boundary of Galston Village. The 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. 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. A small holding comprising residential use is located on the eastern side of the subject property.

The site is located approximately 200 metres east of Galston Village Shops (at the intersection of Arcadia Road and Galston Road) and about 500 metres from the Galston Medical and Community Centre.

A few trees, being part of remnant Sydney Turpentine - Ironbark Forest (STIF) and listed as endangered ecological community, are located adjoining the eastern boundary of the gravel driveway (right-of-carriageway). A number of trees are also located surrounding the dam.

THE MODIFICATION

The Section 4.55(2) application proposes to modify approved Seniors Living Development (DA 850/2011), resulting in a development comprising 88 independent living units, made up of 40 single storey villas and 48 apartments over basement car parking. The development includes a leisure facility, internal road network and at-grade visitor parking. The proposal also includes the demolition of all existing structures on the site (noting some demolition works have commenced from the previous approval) and landscaping works.

The modification would maintain a similar building footprint and height to that approved, a detailed breakdown of the proposed modification is provided below:

Built form

- Reduced development yield from 96 Independent Living Units to 88 units.
- Minor increase to approved floor space ratio (FSR) from 0:36:1 to a resultant FSR of 0.37:1.
- Apartment building 'Block A' fronting Galston Road deleted from the scheme and replaced with single storey villas.
- Number of single storey villas increased from 38 to 40,
- Number of apartments reduced from 58 to 48.
- The modified proposal shifts the apartment buildings centrally within the site and towards the east of the site with one set behind the other to reduce the bulk of the buildings as viewed from the streetscape and centralising the apartments closer to the larger courtyard spaces and leisure centre to provide more landscaping and communal area for residents.
- Community centre replaced with a Leisure Facility located centrally within the site in a similar location to that approved and the floor space increased from 417m² to 1573m². The leisure centre would include a swimming pool, fitness room, library, beauty room, auditorium with stage, cinema, grand foyer, lounge rooms, kitchen, amenities areas, putting green, outdoor table tennis, chess and bowls, bocce, alfresco and administration offices as well as 4 apartments.
- During construction of the Leisure Centre, a temporary community centre is proposed to be used in the location of proposed Apartment 2 by residents who settle into the villas which would be in a similar location to the original temporary community centre.
- The materials and finishes for the apartment buildings would use brick instead of the approved painted render.

Landscaping

- The proposed modification would result in an increase to the landscaped area from 44.5% - 16,500m² (44.5% of the site) to 19,439m² (52.35% of the site), noting that the *SEPP HSPD* calculation includes pathways and paved areas.

Traffic, Parking and Servicing

- The internal road layout would be similar to that approved.
- The proposal provides 129 car spaces throughout the site which includes provision of 8 staff car parking spaces and 17 visitor car parking spaces which exceeds the parking provision by 32 car spaces.

The modification proposes to amend the staging of the consent as follows:

- Stage 1: All roads, Leisure Centre, (4 apartments) and all 40 villas,
- Stage 2: Apartment Building No. 2 - 26 units,
- Stage 3: Apartment Building No. 1 - 18 units.

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 Plan identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

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.

Council has been grouped with Hunters Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Northern Beaches, Ryde, and Willoughby LGAs to form the North District. The *North District Plan* will be reviewed and the Government will set housing targets and monitor supply to ensure planning controls are in place to stimulate housing development. The *Metropolis of Three Cities* sets a District 20 year strategic housing target of 92,000 dwellings over the next 20 years.

The proposed modification would result in a reduction of 8 approved dwelling numbers from 96 approved dwellings to 88 dwellings and would be consistent with the approved development and '*A Metropolis of Three Cities*', by providing additional dwellings and contributing to housing choice in the locality for seniors and people with a disability.

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 - Section 4.55(2)

The proposal constitutes an amendment under Section 4.55(2). Pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, Council may consider an application to amend development consent provided that, inter alia:

- “(a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) it has notified the application in accordance with:*
 - (i) the regulations, if the regulations so require, or*
 - (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*
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1) and (1A) do not apply to such a modification.

- (3) 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.*
- (4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*
- (5) (Repealed)*

With respect to (a), Council is satisfied that the proposed modification is substantially the same as the development as originally approved. The application as modified would reduce the existing approved 96 dwellings within the approved scheme to 88 dwellings. The modification maintains a similar floor space ratio, height, built form and landscaping to the approval with only marginal exceedances to the 10.5 metre *HLEP* height control and 8m ceiling height control of the SEPP.

Council considers that the modification to the approved Seniors Living development would not result in an intensification of the approved use, noting an overall reduction in the number of units provided and would provide increased amenity to future residents and an improved design to that approved.

In addition, the applicant submitted legal advice which concluded that the proposal is substantially the same development and can be dealt with as a modification. Council's legal advice concurs that the proposal can be considered as a Section 4.55 modification.

Accordingly, Council considers that the amended development is substantially the same as the original.

With respect to Section 4.5(2)(b), Council received written correspondence from Transport for NSW and NSW Rural Fire Service who do not raise concerns with respect to the proposed modification. Council did not re-refer the application to NSW Office of Water as a Controlled Activity Approval is not required to be obtained as per NSW Office of Water referral letter dated 6 September 2011.

In accordance with Section 4.5(2)(c) and (d), the amended application was notified in accordance with the Hornsby Community Participation Plan and four submissions were received (2 in support and 2 raising concerns). The matters raised are discussed in Part 5.1 of this report.

With respect to Section 4.5 (3), whilst no specific reasons were provided in determining the original application, the conclusion of the assessment report stated the following:

The development complies with the provisions of SEPP (Housing for Seniors or People with a Disability) and is similar to previous development consents approved in the rural areas of the Shire.

It is considered the modification would continue to comply with the provisions of the SEPP and is similar to previous development consent approved in the rural areas of the Shire.

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 RU4 Primary Production Small Lots under the *HLEP*. The objectives of the RU4 zone are:

- *To enable sustainable primary industry and other compatible land uses.*
- *To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage land uses that support primary production, 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 proposed development is defined as 'Seniors Housing' under the *HLEP*. Seniors Housing is a prohibited land use under the *HLEP* in the RU4 zone.

Notwithstanding, the proposal is permitted under an existing Site Compatibility Certificate issued by the Department of Planning on 14 February 2011 for 96 serviced self-care dwellings in the form of 38

detached and attached houses and 58 apartments in 2-storey blocks and a community centre comprising meeting rooms, office space, communal kitchen and other facilities.

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 the *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 approved development exceeded the height development standard as follows:

- Block A - 10.77m,
- Block B - 11.2m,
- Block C - 12.04m,

The modified proposal reduces the height of all apartment buildings by providing a flat roof instead of a pitched roof as follows:

- Apartment 1 - 9.79m,
- Apartment 2 - 10.62m,
- Leisure Centre - 10.75m,

The reduction in height is considered a better environmental outcome for the site and the amended design is discussed in greater detail in the report under Section 2.3. It is noted that Council's height standard does not apply as the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* prevails to the extent of any inconsistency with the *HLEP*.

2.2.3 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Council. The site does not include a heritage item and is not located in a heritage conservation area. Accordingly, no further assessment regarding heritage is necessary.

2.2.4 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.

The proposed modification does not result in further excavation beyond that originally approved.

The applicant provided a Civil Engineering plans which includes a 'Bulk Earthworks Plan' detailing the extent of excavation proposed and demonstrates that the proposed modification does not result in further excavation beyond that originally approved.

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.

The existing conditions regarding earthworks and importation of fill are considered appropriate, subject to an additional condition regarding adherence with the submitted construction management plan during construction to further assist in managing construction and environmental impacts.

2.2.5 Design Excellence

Clause 6.8 of the *HLEP* sets out matters for consideration to determine whether a proposed development exhibits a high standard of design. The Clause applies to development proposals on land with a permitted height limit over 29.5m (10 storeys or more) as well as attached dwellings, multi dwelling housing, residential flat buildings and shop top housing.

Clause 6.8 states that development consent must not be granted to development to which this Clause applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.

To enable the implementation of '*Clause 6.8 Design Excellence*' in the *HLEP*, Council has established a panel of suitably qualified architecture and urban design professionals to undertake a review of the design quality of relevant developments.

This Clause does not apply to the subject development application for Seniors Living. Notwithstanding, the Applicant agreed to engage an urban designer and the amended scheme was referred to Council's Design Excellence on two separate occasions to provide design guidance and improve amenity for both the neighbourhood and future residents of the development.

It is considered that the modification has adequately responded to suggested amendments recommended by the Design Excellence Panel and achieves a design that is sympathetic to the rural area and increases amenity to future residents and to the low density dwellings adjoining the site to the east. This is discussed in greater detail in Section 2.3.2 of the report below.

2.3 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.

2.3.1 Permissibility and Site Compatibility Certificate

Clause 4 of *SEPP HSPD* lists the circumstances to which the policy applies. As the policy does not directly apply to RU4 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 from the Applicant which was reviewed by Council's Legal Team, 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.

The modification to the original development application in the form presented generally addresses the requirements under *Items 1, 2, 3, 5, 6, 9 and 10* of the SCC which require compliance with Clauses 50 (b), (c), (d) and (f), height of the buildings not exceeding two storeys, number of dwelling units not exceeding 96, dwellings to be sited to maximise accessibility to infrastructure, the minimum area of the community centre to be 300m² and the contamination issues relating to the previous uses on the site to be addressed.

Item 4 of the SCC requires Council to be satisfied that the site would operate as a retirement village comprising “serviced self-care” units and that management mechanisms are in place on the site as required by Clause 42. In this regard, the modification maintains that residents would have access to the provision of meals, services and healthcare to future occupants demonstrating compliance with Clause 42 and the SCC.

Item 7 of the SCC requires the applicant to demonstrate adequate waste water treatment infrastructure and the availability of reticulated sewer. The modification does not propose to alter the existing approved arrangements to pump-out sewerage from the site by a private contractor. The existing arrangement is considered acceptable.

Item 8 requires buffer setbacks to be provided to all boundaries in accordance with Council's Rural Lands Development Control Plan (Rural Lands DCP). The following table provides an assessment of the proposal in this regard:

Standard (Setback)	Approved	Proposed	Required by Rural DCP	Compliance
Front (Galston Road)	23m to 25m	23m to 25m	30m	No (however setback maintained as approved)
Eastern side – Lot 21 DP 851940	3m	5m	15m	No (however buffer increased from approval)
Eastern side (remaining section)	15m	15m	15m	Yes
Northern side (rear)	15m	15m	15m	Yes
Western side (apartment)	7m	7m (apartment deleted and replaced with villas)	15m	No (however setback maintained as approved)
Western side (remaining section)	15m	15m	15m	Yes

As indicated in the above table and the submitted site plan which provides a comparison between the approved development and proposed modification, the proposal does not strictly comply with setback requirements of the Rural Lands DCP. However, the modification maintains similar setbacks to the approved development, and results in reduced built form impacts to western adjoining properties and rural streetscape with the deletion of apartment building 'Block A' fronting Galston Road and overall increased landscaping along the periphery of the site. The setbacks are considered acceptable.

2.3.2 Clause 32 - Design of Residential Development

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

The proposed amendments to the original scheme were referred to Council's Design Excellence Panel to provide guidance to the modification. The modification is accompanied by an urban design analysis report prepared by Gomango Architects.

It is considered that the modification has adequately responded to suggested amendments recommended by the Design Excellence Panel and achieves a design that is sympathetic to the rural area and increases amenity to future residents.

Clause 33 Neighbourhood amenity and streetscape

A consideration of Clause 33 is for development to recognise and maintain the character of the area. The applicant's planner and urban designer provided the following response regarding compliance with Clause 33 design principles:

Planners comments

'The proposed modifications have carefully considered the neighbourhood character and the character of the approved development and are a result of a culmination of numerous meetings with Council and two formal reviews by the Design Excellence Panel.'

The site sits between the existing urban style footprint of the Galston Village with apartment forms located in the same / similar location as originally approved.

The proposal would maintain a maximum of two storeys and the proposed height of the apartment buildings has been significantly reduced from the previous approval with pitched roofs deleted and replaced with flat roof forms which greatly assists with reducing the overall height of the proposal and does not detract from the streetscape and area. The modification to the apartment buildings incorporates brickwork instead of the previously approved rendered elevations and additional landscaping is proposed to ensure a suitable landscape setting to the street and adjoining properties.

The apartment buildings and leisure centre would be located in originally approved locations with apartment A deleted to improve compatibility issues to the neighbouring R2 low density zone.

Council's Design panel provided in principal support to the apartment building A being deleted to improve the compatibility of the scheme within the locality and the apartments and leisure centre located centrally and towards the eastern portion of the site.'

Urban Designers Comments

'This latest scheme improves on the previous layout and in my opinion, the proposed siting of the Apartments and Leisure Centre buildings demonstrate a sound design approach that appropriately balances a range of design and character opportunities and constraints.

It is also my opinion that the proposed developed is a significantly better outcome than the Current Development Approval for the site, as it delivers higher amenity to residents on the site, better-resolves the technical site constraints and lessens the impacts on the streetscape and adjoining neighbours.

This scheme arranges the larger buildings in a more consolidated location in the central/eastern part of the site. This approach of 'clumping' the larger/taller buildings together allows them to screen and contextualise each other rather than spread their impacts across the rest of the site as with the Current Approval. Locating these taller buildings on the eastern edge takes advantage of local taller vegetation to the east of the site which provides a soft backdrop to help mitigate the impact of building height. This proposal removes taller multiple dwellings from the western boundary (shared with existing single detached houses) which significantly reduces the impacts on neighbours that are currently locked into the Current Approval.

The consolidation of the larger buildings improves on the Current Approval in two other important ways. Firstly, it allows single-storey detached and attached houses to provide a softer, more appropriate built-form character to the more sensitive Galston Rd frontage, and western and northern boundaries. This is a vastly improved outcome for the western neighbours and delivers a more relaxed character to Galston Road, with a lower aggregate building height on this edge than the Current Approval. Secondly, the combined built form of the Leisure Centre and Apartments create a more legible, accessible and useable community space for residents and visitors to enjoy than the Current Approval.

The two proposed apartment buildings have rectangular floor plates, generally along an East/West axis, which optimises the buildings' solar orientation. Apartment 2 is 'L-shaped' with and 'leg' against the eastern boundary. Each building is positioned across the slope to address an orthogonal and legible street network and shape a communal BBQ area and terraced garden space. This approach allows the living spaces of units to face internal open space areas and the short ends of the buildings help shape the internal streets, delivering good CPTED outcomes for the Village. It is appropriate that the design response satisfactorily addresses these factors as the primary design considerations.'

Council raises no objections to the contemporary design given the application would result in lesser impacts than that approved, would include brickwork and natural finishes compared to the approved rendered facades, would have an overall reduction in height, is in keeping with current market expectations for apartments and the proposal has demonstrated that the majority of the building massing with the exception of apartment 1 would not be visible from Galston Road and would be complemented by extensive landscaping. In addition, the amended leisure 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 amended villas and apartments. The modification would retain the approved setbacks with no additional privacy measures required.

An amended acoustic report was submitted with the modification which provided an acoustic assessment on the amended scheme and potential noise impacts associated with the use of the leisure centre on adjacent and internal receives.

Council's assessment of the amended acoustic documentation concludes that the amended proposal would achieve acoustic compliance to adjoining properties and villas and apartments within the development and is acceptable subject to conditions restricting the hours of operation of the Leisure Centre to 7am to 10pm Monday to Thursday, 7am to 12 midnight on Friday and Saturday and 8am to 10pm Sunday and Public properties as well as operational conditions to ensure amenity between residents.

Clause 35 Solar Access and Design for Climate

With consideration to Clause 35, the amended villas and apartments would achieve sufficient solar access as demonstrated on the submitted sun chart and solar access diagrams.

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 indicate that bins would be stored beside garages for individual garages and apartments would include a waste collection area. Both the villas and apartments would be serviced by Council's Heavy Rigid Waste vehicle and the Leisure Centre would be collected by a private contractor.

2.3.3 Clause 40 - Development Standards

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

Clause 40(4) prescribes maximum height controls of 8 metres and 2 storeys for developments in residential zones where residential flat buildings are not permitted. This clause does not apply as the site is zoned Rural. Non-compliance with height is discussed in greater detail below in Section 2.3.4.

2.3.3.1 Standards for hostels and self-contained dwellings (Clause 41)

This clause provides development standards to ensure an adequate level of access for people with disabilities. The application includes an amended Access Report and Traffic report that addresses the controls in the SEPP and confirms compliance with the relevant accessibility standards. In addition, the traffic report submitted notes that the villas and apartment car spaces comply with accessibility requirements.

2.3.3.2 Serviced self-care housing (Clause 42)

The applicant advises that all required on-site services and facilities would be provided to the residents. In this regard, a Draft Service agreement format from the intended Seniors Housing provider 'Living Choice' was submitted with the modification. It is considered that this satisfies the requirements of Clause 42, subject to a condition requiring that these facilities and services be finalised prior to the issue of an occupation certificate.

2.3.3.3 Transport Services to local centres (Clause 43)

Local bus services are available with bus shelters being located within a reasonable distance to provide access for residents to the local centres. Additionally, the applicant advises that a 12 seater shuttle bus service would be provided for the residents if required. This is provided via existing conditions of consent.

2.3.3.4 Availability of facilities and services (Clause 44)

All necessary services required are to be provided to residents prior to the occupation of the housing. This is required by existing conditions of consent.

2.3.4 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 vast majority of the site complies with the ceiling height control, however due to the topography of the site, some areas within the apartment buildings exceed the ceiling height control by 1 metre and the lift overrun to the leisure centre exceeds the *HLEP 10.5m* height standard by 250mm.

The Applicant's Planner provided the following justification for the minor height variation:

‘The proposed modified development is considered acceptable in its current form, notwithstanding numerical variation of the ceiling height control of the SEPP – Seniors Living and height control of the Hornsby LEP 2013 based on the following assessment:

- *Ostensibly, the scheme will present as a compliant scheme.*
- *The current proposal presents only marginal non-compliant height elements which are predominantly ceiling exceedances and all are located central to the site. The LEP height control is exceeded to the greatest extent by the lift overrun in the Leisure Centre by 250mm. Other exceedances are negligible in range and height. All apartments read as two storey and are generously screened by landscape elements to the boundaries of the site.*
- *By comparison, all three apartment buildings in the approved scheme have non-compliant height components to them and the scheme included three storey elements.*
- *It is considered that the proposal in its modified form results in a comparable built form to that approved and similarly considers the objectives and development controls that apply to the site and the professional feedback obtained from the Council and Design Excellence panel to date.’*

In addition, the Applicant's Urban Designer provided the following justification with regard to the height variation:

The taller buildings are arranged to mitigate the site slope and living spaces of units to face and activate internal open space areas with the short ends of the buildings helping to shape the internal streets, delivering good CPTED outcomes for the Village. This is an appropriate design approach which also allows for single storey dwellings to be located on the edges the site and where the sensitivities with neighbouring land are highest.

The proposed apartment buildings sit diagonally across the site contours. The 2-storey apartments sit on podia of varied heights which mostly screens each of the semi-basement parking areas below the units. The height of the apartments built form varies due to their diagonal placement and simple, gently sloping roof-forms. The built form of the apartments mostly read as 2-storeys with an average effective height above ground of approximately 8.5 metres. The overwhelming majority of the buildings have a height above natural ground level (NGL) of less than 8.5m although some projecting parts are higher. The South-West corner of Apartment 1 is approximately 9.4m above natural ground with an average elevation of around 9m above NGL. This is not considered a significant encroachment and is consistent with heights of the Current Approval. Apartment 2 is at its highest in the south-west corner where the basement car-parking is exposed. The overall building height above NGL is approximately 10.5m however this is screened from Galston Road by other dwellings. Proposed landscaping around the base of the podia walls help mitigate the overall impact of the building heights.

The proposed Leisure Centre sits on predominantly flat ground. The 2-storey building also has a variety of heights and the built form reads as 2-storeys with an average effective height above ground of approximately 8.5 metres. The overwhelming majority of the building has a height above natural ground level (NGL) of less than 9m although part of the South and Eastern elevations are higher where the ground slopes away and the roof tips up, with a maximum height of approximately 9.5m (Elevation 4) above NGL.

This projection represents a small part of the overall Leisure Centre built form and the perceived impacts of this additional height are considered negligible.

In summary, it is my opinion that on balance the proposed development is consistent with the architectural and urban design intent of Part 3 - Design Requirements of the SEPP (Housing for Seniors with a Disability) 2004. Furthermore, in my opinion this proposed scheme far exceeds the design outcomes of the Current Approval for the site.'

The applicant's submission to vary the 8 metre maximum building height development standard of the SEPP is generally considered well founded and acceptable as the overall height of the apartment buildings would be lower than the approved scheme with the removal of steep roof pitches and replacement with flat roof pitches and the height variations are each located centrally within the site and would not be perceptible from the streetscape or adjoining properties. In addition, the overall scale of the development would be similar to that approved as the proposal would be a maximum two storeys in height.

It is considered that the amended proposal would have a lesser built form impact then the approved scheme with an overall reduction in height of each apartment building. The modification would delete Building A which adjoins the R2 Low density zone at an approved 7m setback and the reconfiguration Apartments 1 and 2 to the sloping section of the site as well as the design of the leisure centre, was supported by Council's Design Excellence Panel and would result in a better design outcome when compared to the original approval.

- 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 0.37:1 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 52% total site would be landscaped.

- d) **Deep Soil Zone:** *if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the area of the site.*

Comment: The submitted plans indicates that the proposal would comply with the 15% deep soil requirement.

- 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 87% of living rooms and private open spaces would receive adequate sunlight between 9am and 3pm during Winter Solstice.

- e) **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: This clause does not apply to serviced self-care housing developments, Notwithstanding, the private open space of each of the amended villa would be larger than 10m² and each unit would include functional private open space.

- f) *(Repealed)*

- g) **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. All 2 bedroom dwellings are provided with 1 car spaces, and 3 bedroom dwellings provided with 2 car spaces are required.

2.4 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.

No further assessment is required under the policy as the existing conditions of consent would ensure that the site is remediated prior to commencement of works, the soil is tested prior to disposal and a validation report is prepared in accordance with the relevant guidelines.

The proposed modification is acceptable with regard to *SEPP 55* provisions.

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 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.

The Roads Maritime Service reviewed the proposed modification and provided their concurrence subject to additional design and construction conditions. These additional conditions are included in Schedule 1.

No further assessment is required under the policy.

2.7 State Environmental Planning Policy (State and Regional Development) 2011

Section 4.5(b) of the EP&A Act provides that the Sydney district planning panel for the area in which the development is to be carried out is the consent authority for development of a kind that is declared by an EPI as regionally significant development. Schedule 7(2) of *SEPP SRD* provides that development that has a CIV of more than \$30 million is regionally significant development.

As the original, and current proposal have a CIV of more than \$30 million, it is deemed to be regionally significant development and the Sydney North Planning Panel is the consent authority for the DA.

2.8 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 proposal would comply with the requirements of the Policy.

2.9 Rural Fire Act 1997

The site is bushfire prone and accordingly, the proposed development constitutes ‘*integrated development*’ subject to approval of the NSW Rural Fire Service for the issue of General Terms of Approval under Division 4.8 of the *Environmental Planning and Assessment Act 1979* and a Bush Fire Safety Authority pursuant to Section 100B of the *Rural Fires Act 1997*.

The subject modification application was subsequently referred to the NSW Rural Fire Service (RFS) for comment regarding bushfire protection. It is noted the previous development application was not required to be referred to the RFS as the site was not classified as bushfire prone at that time.

The RFS raised no concerns with the proposed development and provided General Terms of Approval (GTA) and a Bush Fire Safety Authority, subject to new conditions requiring water, electricity, gas and landscaping to comply with *Planning for Bushfire Protection 2019* and preparation of a bushfire emergency management and evacuation plan to be submitted to the Local Emergency Management Committee.

2.10 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.

2.11 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant performance and prescriptive design controls contained within the Hornsby Development Control Plan 2013 (HDCP). Council notes that the proposal has been assessed predominantly against the requirements of *SEPP HSPD* in accordance with the prescriptive measure of Part 7.2 of the HDCP which states development for seniors housing should comply with the planning controls in the SEPP.

The performance of the development against the generic controls in the HDCP is discussed further below

2.11.1 Setbacks

This matter has been discussed in detail in this report above under Section 2.3.1 ‘Permissibility and Site Compatibility Certificate’

The amended proposal would maintain similar setbacks to the approved scheme and would maintain the rural character with sufficient landscaping provided to mitigate built form impacts.

2.11.2 Landscaping

The application includes a modified landscape plan to cater for the modification of building envelopes and road layout and would result in overall increased landscaping. The landscape plan includes post and rail fencing along the front and adjoining rural setbacks to pick up on the transition of density and takes advantage of the significant setbacks provided by providing extensive landscaping along the periphery of the site and internally.

Council raises no objections to the amended plans as they still incorporate a range of locally significant trees, along with shrubs and groundcovers.

2.12 Section 7.11 Contributions Plans

The original development application resulted a Section 7.11 Contribution Levy for 96 Seniors Housing dwellings and included a credit of \$20,000 for the existing dwelling house which was calculated at the 24 January 2012. As the Section 7.11 Contribution has not been paid, and the proposal would result in a reduction of 8 units, Condition 41 has been modified to include a revised condition to reflect the new dwelling numbers.

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. Accordingly, Council's Engineer did not raise objections to the proposed stormwater management, subject to modification of condition No. 55 for on-site stormwater detention to reflect the increased roof area of the proposal, from a capacity of 750 cubic metres to 1150 cubic metres and from a maximum discharge when full of 700 litres per second to 482 litres per second.

3.2 Built Environment

3.2.1 Built Form

The proposed modifications would not result in significant changes to the approved built form and scale of the development and is consistent with the original approval.

3.2.2 Traffic

A Traffic and Parking Assessment prepared by McLaren Traffic Engineering was submitted with the proposal.

Council's Traffic Branch reviewed the modified proposal and supporting traffic report and advised that traffic generation is not considered an issue with this development as the proposal would comply with

the TNSW traffic generation rates for seniors housing which recommends 0.4 trips per dwellings for PM peak hours, giving the net traffic generation of 35 vehicle trips in both the AM and PM peak periods.

3.3 Social Impacts

It is considered that the amendment would result in a positive social impact by providing a larger community centre, apartments 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

Section 4.15(1)(c) of the Act requires Council to consider *“the suitability of the site for the development”*.

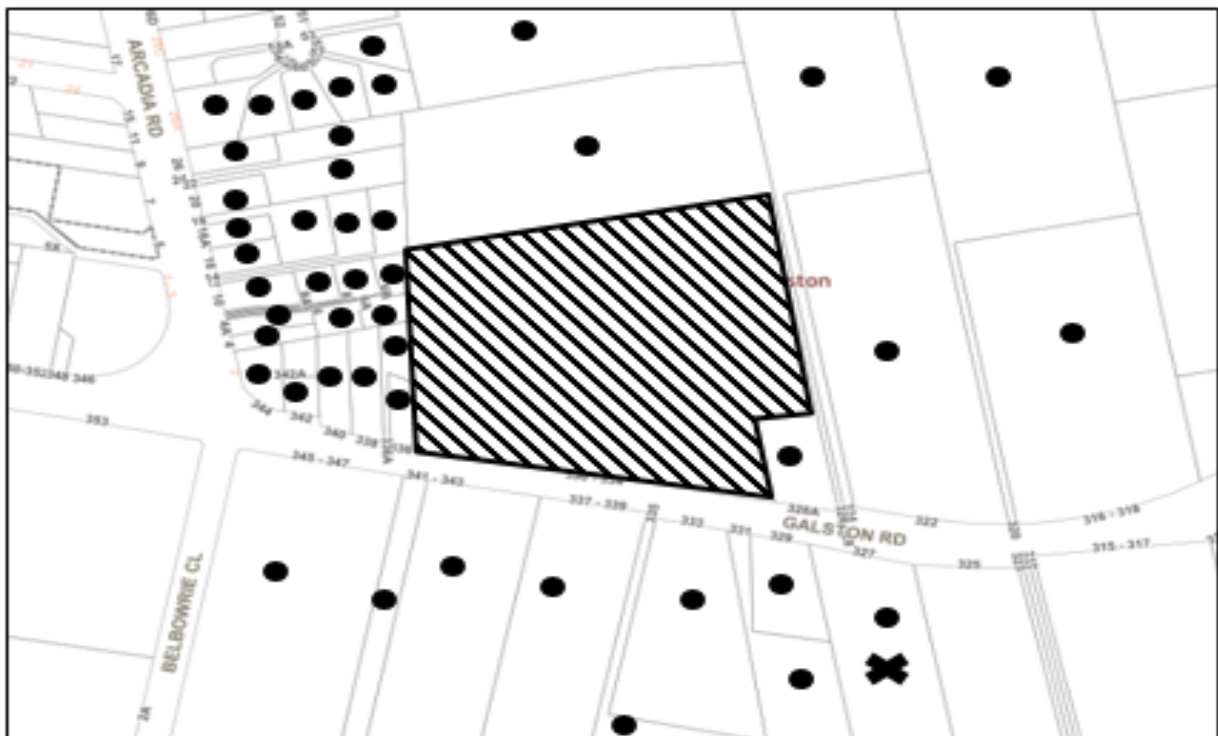
As discussed in the “Background” section of this report, the site was approved for use as seniors living development comprising 96 dwellings. The proposed amendments would not necessitate a re-assessment of the site suitability.

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 10 May 2021 to 27 May 2021 in accordance with the Hornsby Community Participation Plan. During the original notification period, Council received 4 submissions, 2 in support and 2 objections. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

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

- Access to Nancy Place should not be permitted,
- Issues regarding activation of original consent,
- Setbacks don't comply with the HDCP,
- Traffic impacts,
- Sewerage impacts,
- Rural character would be diminished,
- Notification issue

The above issues have been addressed in the report above with the exception of the following:

5.1.1 Traffic impacts

Comment: A submission raises concerns that the proposal would result in increased traffic impacts.

Council's Traffic Branch reviewed the modified proposal and advised that traffic generation is not considered an issue with this development. This is discussed in greater detail above under Section 3.2.2.

5.1.2 Nancy Place Access

Comment: A submission raises concerns that the proposal would require access to Nancy Place.

No vehicular access is proposed to Nancy Place.

5.1.3 Activation of Consent

Comment: A submission raises concerns regarding activation of the consent.

This is discussed in greater detail in the report above under 'Background', and it is considered that the deferred consent commencement condition has been achieved following submission on additional information.

5.1.4 Notification of original DA

Comment: A submission raised concerns they were not given the opportunity to formally object to the original DA.

The original application was notified in accordance with the notification and exhibition procedures at the time of assessment.

5.1.5 Character of amended proposal

Comment: A submission raised concerns that the proposal is too modern compared to the approval.

This matter is discussed in greater detail in the report under Section 2.3.2 'Clause 32 - Design of Residential Development'. The modified development would promote housing design that is compatible with the character of the village and rural areas and has regard to the environmental constraints of site. The varied range of finishes which includes extensive brickwork instead of the approved rendered finish and low pitch roof for apartments instead of steep roof pitches allows the height of the apartment buildings to be lower than that of approved and less perceptible from the streetscape. Furthermore, the application has deleted apartment A from the scheme and replaced it with single storey villas which provides greater interface and compatibility with the adjoining R2 zone.

5.2 Public Agencies

The development application was referred to the following Agencies for comment:

5.2.1 Transport for NSW

The Roads Maritime Service granted concurrence to the amended proposal. This is discussed in greater detail in the report above under Section 2.6.

5.2.2 NSW Rural Fire Service

NSW RFS issued General Terms of Approval to the amended proposal. This is discussed in greater detail in the report above under Section 2.9

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 4.55(2) application proposes modification to an approved Seniors Living development resulting in a development consisting of 88 independent living units, comprising 40 single storey villas and 48 apartments over basement car parking.

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 4 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, traffic, 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

Date of this modification:

(DA/850/2011/B)

Details of this modification: Reconfiguration of seniors living scheme with reduction in units from 96 to 88 units modified internal roads and landscaping, deletion of block A and expansion of leisure centre

Amended Development Description: Demolition of the existing structures and construction of a seniors living development comprising 88 self-contained units, community facility and ancillary works

Conditions Added: 11A, 28A, 28B, 28C, 41A, 41B, 46A,

Conditions Deleted: 1

Council Conditions Modified: 2, 3, 5, 9, 8, 10, 12, 13, 14, 15, 16, 17, 20, 22, 24, 26, 27, 28, 30, 31, 33 (added note), 35, 38, 39, 41, 44, 48(b), 50, 52, 53, 55, 56, 58, 61, 62, 63, 66

TfNSW Conditions Modified: 69

TfNSW Conditions Added: 70 - 75

RFS Conditions Modified: Nil – no prior RFS conditions

RFS Conditions Added: 76, 77, 78

CONDITIONS OF APPROVAL

1. ~~Deferred Commencement~~

~~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) 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 sewage 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 sewage 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 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.~~
 - ~~v) Details of proposed tanker pump out frequency and procedures for emergency pump out.~~~~
- ~~c) Documentary evidence must be provided to the effect that licence has been granted under the *Water Industry Competition Act 2006* 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.~~

~~Upon Council's written satisfaction of the above information, the following conditions of development consent will apply:~~

CONDITIONS APPLICABLE TO ALL STAGES OF THE DEVELOPMENT

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.

2. Approved Plans and Supporting Documentation

The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by Council and/or other conditions of this consent:

Approved Plans

Plan No./ Title	Rev	Drawn by	Dated	Council Reference
1.4 Site Plan	DA3	CBD Building Design	08.07.21	
1.5 Site Details	DA2	CBD Building Design	08.07.21	
1.6 Site Analysis Plan	DA1	CBD Building Design	21.04.21	
1.7 Site Construction Staging Plans	DA2	CBD Building Design	08.07.21	
1.10 Site Street View	DA3	CBD Building Design	21.04.21	
1.11 Waste Management – Bins Location	DA2	CBD Building Design	08.07.21	
1.12 Basix Summary	DA1	CBD Building Design	21.04.21	
1.15 Site Plan Footprint Comparison	DA2	CBD Building Design	08.07.21	
1.16 Top of retaining wall plan	DA1	CBD Building Design	08.07.21	
2.1 Site Sections – Sheet 1	DA3	CBD Building Design	08.07.21	

2.2 Site Sections – Sheet 2	DA3	CBD Building Design	08.07.21	
2.3 Site Boundary Elevations	DA3	CBD Building Design	08.07.21	
3.1 Leisure Centre Ground Level	DA3	CBD Building Design	08.07.21	
3.2 Leisure Centre Level 1 & Roof Drainage Plan	DA2	CBD Building Design	08.07.21	
3.3 Leisure Centre Elevations – Sheet 1	DA1	CBD Building Design	21.04.21	
3.4 Leisure Centre Elevations – Sheet 2	DA1	CBD Building Design	21.04.21	
3.5 Leisure Centre Sections	DA3	CBD Building Design	21.04.21	
4.1 Apartment 1 Basement Level, Ground floor, level 1, roof	DA2	CBD Building Design	08.07.21	
4.2 Apartment 1 Elevations	DA1	CBD Building Design	21.04.21	
4.3 Apartment 1 Sections	DA3	CBD Building Design	21.04.21	
5.1 Apartment 2 Basement Level	DA2	CBD Building Design	08.07.21	
5.2 Apartment 2 Ground Floor Plan	DA2	CBD Building Design	08.07.21	
5.3 Apartment 2 Level 1 Plan	DA2	CBD Building Design	08.07.21	
5.4 Apartment 2 Roof Drainage Plan	DA2	CBD Building Design	08.07.21	
5.5 Apartment 2 Elevations – Sheet 1	DA2	CBD Building Design	08.07.21	
5.6 Apartment 2 Elevations – Sheet 2	DA2	CBD Building Design	08.07.21	
5.7 Apartment 2 Sections	DA4	CBD Building Design	08.07.21	
6.1 Villa V1a	DA2	CBD Building Design	08.07.21	
6.2 Villa V1b	DA2	CBD Building Design	08.07.21	
6.3 Villa V1a-D	DA2	CBD Building Design	08.07.21	
6.4 Villa V1b-D	DA2	CBD Building Design	08.07.21	
6.5 Villa V2a	DA2	CBD Building Design	08.07.21	

6.6 Villa V2b	DA2	CBD Building Design	08.07.21	
6.7 Villa V2a-D	DA2	CBD Building Design	08.07.21	
6.8 Villa V2b-D	DA2	CBD Building Design	08.07.21	
6.9 Villa V3	DA2	CBD Building Design	08.07.21	
6.10 Villa V3-D	DA2	CBD Building Design	08.07.21	
6.11 Villa V4-D	DA2	CBD Building Design	08.07.21	
6.12 Villa V5-D	DA2	CBD Building Design	08.07.21	
6.13 Villa V6	DA2	CBD Building Design	08.07.21	
6.14 Villa V7	DA2	CBD Building Design	08.07.21	
Colour chart and finishes schedule for Leisure Centre and apartments	DA2	CBD Building Design	08.07.21	
Sheet 1.0, Temporary leisure Centre	DA1	CBD Building Design	23.08.21	
Temporary leisure centre elevation and fitout	DA1	CBD Building Design	25.08.2021	
Temporary leisure centre site plan	DA1	CBD Building Design	25.08.2021	
Proposed landscape works – site, Sheet 5 & 6	B	Deep rainforest	April 21	
Proposed landscape works – villa/western boundary, Sheet 7	B	Deep rainforest	April 21	
Proposed landscape treatment – villa/northern boundary, Sheet 8	B	Deep rainforest	April 21	
Proposed landscape treatment – villa/leisure centre, Sheet 9	B	Deep rainforest	April 21	
Contextual elevations, Sheet 10	B	Deep rainforest	April 21	
Landscape intent, Sheet 11	B	Deep rainforest	April 21	
Proposed plant palette, Sheet 12	B	Deep rainforest	April 21	

Supporting Documentation

Document Title	Prepared by	Dated	Council Reference
Accessibility Report ref: 10054	Purely Access	06/04/2021	D08158933

Document Title	Prepared by	Dated	Council Reference
Arboricultural Impact Assessment	McArdle Arboricultural Consultancy	07/08/2021	D07975284
Addendum Acoustic Assessment Ref: 2104729	Wilkinson Murray Pty Ltd	09/07/21	D08205897
Addendum to RWDI Report 2104729	RWDI Australia Pty Ltd	24/08/21	D08232863
Tree Location Plan	Hornsby Shire Council	18/09/2021	D08011184
Fire Engineering Report - Rev02	YGL consulting	April 2021	D08158892
Example Plan of Management Services	Living Choice	April 2020	D08158894
Waste Management Schedule	No name	08/07/2021	D08205879
Bushfire Risk Assessment Report No. 330Gal-01	Bushfire Consultancy Australia	28/01/2018	D08158923
BASIX Certificate No. 1091636M_02	Building Sustainability Assessments	16/04/2021	D08158928
Operations & Activity Schedule, ('the Activity Schedule')	Living Choice Retirement Villages	2021	D08205887
Traffic and Parking Impact Assessment ref: 210167.01FA	McLaren Traffic Engineering	19/04/2021	D08158946
Construction Management Plan	Living Choice Australia Pty Ltd	21/09/20	D08205885
TfNSW Concurrence Letter ref: SYD10/00284/05	Transport for NSW	04/08/2021	D08222277
NSW RFS General Terms of Approval letter ref: A20200618002152- S4.55-1	NSW Rural Fire Service	02/08/201	D08219584
001 Cover Sheet, Site Location and Drawing Register, Rev 3	CUBO Consulting	15.04.21	D08158906
010 Stormwater Plan, Rev 3	CUBO Consulting	15.04.21	D08158906
010 Stormwater Plan, Rev 2	CUBO Consulting	15.04.21	D08158906
011 Stormwater Details, Rev 2	CUBO Consulting	15.04.21	D08158906
020 Roads Plan, Rev 2	CUBO Consulting	08.03.21	D08158906
021 Roads Long-sections, Rev 2	CUBO Consulting	15.04.21	D08158906
022 Roads Long sections, Rev 2	CUBO Consulting	08.03.21	D08158906
023 Roads Long sections, Rev 2	CUBO Consulting	08.03.21	D08158906
027 Typical Road Cross Sections, Rev 2	CUBO Consulting	08.03.21	D08158906
030 Sewer Plan and Details, Rev 2	CUBO Consulting	08.03.21	D08158906
031 Sewer Plan and Details, Rev 2	CUBO Consulting	08.03.21	D08158906
040 Retaining Wall Plan, Rev 2	CUBO Consulting	08.03.21	D08158906
041 Retaining Wall Details 1, Rev 2	CUBO Consulting	15.04.21	D08158906

Document Title	Prepared by	Dated	Council Reference
042 Retaining Wall Details 2, Rev 2	CUBO Consulting	08.03.21	D08158906
050 Vehicle Swept Path Plan 1, Rev 3	CUBO Consulting	08.03.21	D08158906
051 Vehicle Swept Path Plan 2, Rev 3	CUBO Consulting	15.04.21	D08158906
060 Sediment Plan and Details, Rev 3	CUBO Consulting	15.04.21	D08158906
080 Bulk Earthworks Plan and Details, Rev 3	CUBO Consulting	15.04.21	D08158906
Stormwater report	CUBO Consulting	15.04.21	D08158948
Multi Purpose modular building	Ausco modular	No date	D08233226
Flood Study	Acor Consultants	22.07.2011	D01739299
Contamination Assessment - 71406.01	Douglas Partners Pty Ltd	March 2010	D01739301

3. Removal of Existing Trees

~~This development consent only permits the removal of trees plotted, numbered and identified for removal on Landscape Plan No.3B prepared by Michael Zinn dated December 2010. The removal of any other trees requires separate approval under Council's Tree Preservation Order.~~

- a) This development consent permits the removal of trees numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53 and 54 as identified in the Tree Location Plan and Tree Protection Plan provided by Council's Tree Management Team dated 18 September 2020 (TRIM D08011184).
- b) The development consent does not permit pruning of any retained trees.

Note: The removal of any other trees from the site requires separate approval by Council in accordance with Part 1B.6 Tree and Vegetation Preservation of the Hornsby Development Control Plan, 2013 (HDCP).

4. Project Arborist

A Project Arborist is to be appointed prior to the commencement of Stage 1 of the development in accordance with *Australian Standard AS4970-2009 Protection of trees of development sites* (1.4.4) to provide monitoring and certification throughout the development process for all stages.

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

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

Detailed plans, specifications and supporting information is required to be submitted to the certifying authority detailing how the proposed building work achieves compliance with the *National Construction Code - Building Code of Australia*. All building work must be carried out in accordance with the requirements of the *National Construction Code - Building Code of Australia*.

6. Contract of Insurance (Residential Building Work)

In the case of residential building work for which the *Home Building Act 1989* requires there to be a 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 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 Section 187 or 188 of the Act, subject to the terms of any condition or requirement referred to in Section 187(6) or 188(4) of the Act, or to the erection of a temporary building.

7. Notification of Home Building Act 1989 Requirements

Residential building work within the meaning of the *Home Building Act 1989* 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 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; and
 - 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; and
 - 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 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.

8. Utility Services

The applicant must submit written evidence of the following service provider requirements:

- a) *Ausgrid (formerly Energy Australia)* – a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.

- b) *Sydney Water* – the submission of a ‘Notice of Requirements’ under s73 of the Sydney Water Act 1994.
- c) *Telstra* - a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.

Note: Sydney Water requires that s73 applications are to be made through an authorised Sydney Water Servicing Coordinator. Refer to www.sydneywater.com.au or telephone 13 20 92 for assistance.

9. Acoustic Details

- a) The Construction Certificate plans for each stage of the development must:
 - i) Demonstrate compliance with the recommendations of the Addendum Acoustic Assessment ref: 2104729, prepared by Wilkinson Murray, dated 9 July 2021; and
 - ii) Incorporate the specific ‘Noise Control Treatment Inclusions’ detailed in the Addendum to RWDI Report 2104729, prepared by RWDI Australia Pty Ltd, dated 24 August 2021, (TRIM: D08232863).

Note: The habitable rooms must satisfy the requirements of Clause 102(3) of the State Environmental Planning Policy (Infrastructure) 2007. The road traffic noise from Galston Road must be suitably mitigated by the use of durable materials.

10. Access and Mobility

The Construction Certificate drawings for each stage of the development must demonstrate compliance with the standards concerning accessibility and useability for self-contained dwellings (serviced self-care housing) in Schedule 3 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability)* 2004, ~~the Access report prepared by Campbell Luscombe Architects received by Council on 15 August 2014~~ and the Accessibility Report ref: 10054 prepared by Purely Access dated 5 April 2021.

11. Retaining walls

A plan of all retaining walls and earthworks must be prepared by a chartered geotechnical and structural Engineer for each stage of the development.

11A. Waste Management Details

- a) Should there be any conflict or confusion between approved plans and/or consent conditions related to the waste management system or the waste collection vehicle travel path on site, then written clarification must be obtained from Council.
- b) There must be no steps along any bin carting route. Ramps and service lifts are acceptable.
- c) For all bin carting routes, the path must be smooth hard surface. (Concrete pavement for example is acceptable, but pebbles, stepping stones, grass etc is not acceptable).
- d) A design certificate and detailed plans are to accompany any Construction Certificate application, which demonstrate that the waste carting route from each apartment unit

to their communal bin storage room has been designed to be constructed in accordance with the Waste Minimisation and Management Guidelines and including the following requirements:

- i) The route is direct, does not cross into a private lot, and is wholly within property boundaries (does not include the public footpath or road); and
 - ii) The route is as short as possible and does not exceed 30m walking distance; and
 - iii) The route is an accessible path of travel for persons with a disability in accordance with AS1428 Design and Access for Mobility.
- e) The residential component and non-residential component (Leisure Centre and auxiliary facilities) of the development must have separate and self-contained waste management systems, including separate bin storage areas. Commercial tenants must not have access to the residential waste/recycling bins and vice versa.
- f) A bulky waste storage area of at least 8 square metres must be provided for each apartment building. The hard waste collection point No. 2 is to be located no closer than 1m from the turning head.
- g) A design certificate and detailed plans are to accompany any Construction Certificate application, which demonstrate that the waste storage room(s) for the apartment buildings and the leisure centre building have been designed to be constructed in accordance with the Waste Minimisation and Management Guidelines and including the following requirements:
 - i) The floor is to be constructed of concrete at least 75mm thick and adequately graded to drain to a Sydney Water approved drainage fitting;
 - ii) The floor must be finished so that it is non-slip, sealed and impervious, and has a smooth and even surface coved at all intersections;
 - iii) The ceilings and walls must be finished with smooth faced non-absorbent material capable of being cleaned;
 - iv) The room is to be provided with artificial light controllable within the room and adequate ventilation;
 - v) The room is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
 - vi) The doors are to be robust and lockable, with a door opening of no less than 1.0m. The doors must be able to be opened from inside the room without a key.
 - vii) The room must be accessible by persons with a disability (in accordance with *AS1428 Design and Access for Mobility*) after the garbage bins and recycling bins are installed with every bin being accessible (no stacking of bins 2 or more deep);
- h) A design certificate from a qualified traffic engineer and detailed plans are to accompany the Construction Certificate application that confirms that the waste can be directly collected from the kerbside throughout the site as detailed in the Waste

Management Plan and the Traffic Report. The design certificate is to specifically confirm that the:

- i) Waste collection vehicle is able to enter the site in a forward direction, adequately manoeuvre into position near the bins, load bins, make all necessary turns and exit the site in a forward direction
 - ii) Vertical clearance of 4.5m is provided along the entire route of travel of the waste collection vehicle on site and loading bay
 - iii) The installation of overhead cables, lights, signs etc will not reduce the vertical clearance of the waste collection vehicle travel path on site to less than 4.5m.
 - iv) The waste collection vehicle must be able to manoeuvre around the site with limited need for reversing
 - v) The grades along the entire travel path of the waste collection vehicle on site must not exceed the maximum grades of AS2890.2 for a heavy rigid vehicle
 - vi) The vehicle ground clearance is sufficient to prevent scraping
 - vii) All pavement has been designed to carry the load of the heavy rigid vehicle.
- i) Each stage of the development must be capable of being serviced for waste collection prior to the completion of that stage. This capability must be retained throughout all subsequent stages of the development.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS
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12. Erection of Construction Sign

- a) A sign must be erected in a prominent position on any site on which any approved work is being carried out:
 - i) Showing the name, address and telephone number of the principal certifying authority for the work;
 - ii) 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
 - iii) Stating that unauthorised entry to the work site is prohibited.
- b) The sign is to be maintained while the approved work is being carried out and must be removed when the work has been completed.

13. Protection of Adjoining Areas

A temporary hoarding, fence or awning must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

- a) Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic;
- b) Could cause damage to adjoining lands by falling objects; and/or
- c) Involve the enclosure of a public place or part of a public place; and/or

- d) Have been identified as requiring a temporary hoarding, fence or awning within the Council approved Construction Management Plan (CMP).

Note: Notwithstanding the above, Council's separate written approval is required prior to the erection of any structure or other obstruction on public land.

14. Toilet Facilities

- a) To provide a safe and hygienic workplace, toilet facilities must be available or be installed at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet for every 20 persons employed at the site.
- b) Each toilet must:
- i) be a temporary chemical closet approved under the *Local Government Act 1993*; or
 - ii) have an on-site effluent disposal system approved under the *Local Government Act 1993*.

15. Erosion and Sediment Control

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

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

16. Tree Protection Barriers/Tree Protection Measures

~~Site perimeter fencing must be erected prior to the placement of Tree protection fencing.~~

~~Tree Protection Zones (TPZ) are to be fenced in accordance with AS 4970-2009 (Section 4) at the distances as listed in the table below and the fencing must be constructed of 1.8 metre 'cyclone chainmesh fence'~~

TREES	TPZ
T3	6m
T49	8.4m
T51, T52	10.8m
T53	9.6m
Tree Group B as identified in Landscape Plan No.1 prepared by Michael Zinn dated December 2010.	7.2m

~~A certificate from the project Arborist (AQF 5) is to be submitted to the Principal Certifying Authority stating that all tree protection measures are in accordance with the above table and AS 4970-2009 (Section 4) prior to commencement of works for any stage of the development.~~

- a) Trees to be retained and numbered 15, 16, 17, 18, 42 and 43 as identified on the Tree Location Plan and Tree Protection Plan provided by Council's Tree Management Team dated 18 September 2020 (TRIM D08011184) must have tree protection measures for the ground, trunk and canopy installed by the project arborist as follows:
 - i) For the duration of demolition works, in accordance with the Tree Protection Plan for prepared by Tree Location Plan and Tree Protection Plan provided by Council's Tree Management Team dated 18 September 2020.
 - ii) For the duration of construction works, in accordance with Tree Location Plan and Tree Protection Plan provided by Council's Tree Management Team dated 18 September 2020.
- b) Tree protection fencing for the trees to be retained numbered 15, 16, 17, 18, 42 and 43 must be installed by the engaged AQF 5 project arborist and consist of 1.8m high temporary fencing panels installed in accordance with *Australian Standard AS4687-2007 Temporary fencing and hoardings*.
- c) The installation of all required tree protection fencing must include shade cloth attached to the fencing to reduce transport of dust, particulates and liquids from entering the tree protection zone.
- d) The installation of all required tree protection fencing must have a TPZ radius as listed in the Table below:

Tree number	TPZ radius from centre of tree
15	7.6
16	7.8
17	8.4
18	2
42	4.2
43	2

- e) The circumference of the trunk(s) must be wrapped in hessian material to provide cushioning for the installation of timber planks.
- f) All tree protection zones must have a layer of wood-chip mulch at a depth of between 150mm and 300mm.
- g) Where wood-chip mulch is permitted by Council instead of tree protection fencing within the tree protection zones, the wood-chip must be covered with a layer of geotextile fabric and rumble boards.

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION
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17. Construction Work Hours

All work on site (including demolition and earth works) must only occur between 7am and 5pm Monday to Saturday (unless otherwise approved in writing by Council due to extenuating circumstances). No work is to be undertaken on Sundays or public holidays.

18. Right-of-access

Right-of-access to DP 601822 at the rear must be maintained at all times.

19. Presence of asbestos

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

20. Construction Noise Management

The construction works must be undertaken in accordance with the ~~“Interim Construction Noise Guidelines – 2009” published by DECCW~~ Addendum Acoustic Assessment, Ref: 2104729 prepared by Wilkinson Murray, dated 9 July 2021 and the Interim Construction Noise Guidelines - 2009 published by DECCW.

21. Council Property

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

22. Environmental Management

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

To prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction, 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.

23. Street Sweeping

Street sweeping must be undertaken following sediment tracking from the site along Galston Road during works for all stages of the development and until the site is established for that stage.

24. Works near Trees

~~All required tree protection measures are to be maintained in accordance with AS 4373-2009 (Section 4) for the duration of the construction period for all stages of the development.~~

~~All construction works within the Tree Protection Zones (TPZ) of trees T51, T52, T53 & Tree Group B must be conducted under the supervision of the Project Arborist.~~

~~The construction work area within a TPZ must not exceed 20% of the TPZ, and an area equivalent to the encroachment area must be compensated for elsewhere and be contiguous with the TPZ for the duration of the construction period.~~

- a) The following activities are prohibited within the approved fenced tree protection zones unless otherwise approved by Council:
 - i) Soil cutting or filling, including excavation and trenching
 - ii) Soil cultivation, disturbance or compaction
 - iii) Stockpiling storage or mixing of materials
 - iv) The parking, storing, washing and repairing of tools, equipment and machinery
 - v) The disposal of liquids and refuelling
 - vi) The disposal of building materials
 - vii) The siting of offices or sheds
 - viii) Any action leading to the impact on tree health or structure
- b) The appointed project arborist must monitor and record any and all necessary actions required to maintain tree health and condition for trees numbered 15, 16, 17, 18, 42 and 43 on the approved plans.
- c) Tree Protection Measures must be maintained by the project arborist in accordance with Condition No. 4 of this consent for the duration of works.
- d) The new driveway must be constructed using the following process:
 - i) To minimise soil compaction the proposed driveway must be built above grade using sensitive construction techniques in the form of piers or screw pilings.
 - ii) To minimise soil compaction all imported material in the vicinity of the replacement driveway must be distributed by hand.
- e) No changes of grade within the Tree Protection Zone of trees to be retained numbered 15, 16, 17, 18, 42 and 43 on the approved plans, are permitted.
- f) To minimise impacts within the Tree Protection Zone (TPZ) of trees numbered 15, 16, 17, 18, 42 and 43 on the approved plans, the installation of services must be undertaken as follows:
 - i) The AQF 5 project arborist must be present to oversee the installation of any underground services which enter or transect the tree protection.
 - ii) The installation of any underground services which either enter or transect the designated TPZ must be undertaken manually.
 - iii) For manually excavated trenches the AQF 5 project arborist must designate roots to be retained. Manual excavation may include the use of pneumatic and hydraulic tools.

- g) Where scaffolding is required, ground protection must be installed beneath the scaffolding in the following order:
 - i) Installation of a 100mm deep layer of woodchip and;
 - ii) Installation of geotextile fabric ground covering and;
 - iii) Installation of scaffold boarding above the woodchip and geotextile fabric.
- h) The stockpiling of building materials, the parking of vehicles or plant, the disposal of cement slurry, waste water or other contaminants must be located outside the tree protection zones as prescribed in the conditions of this consent of any tree to be retained.

25. Disturbance of Existing Site

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

26. Landfill

Landfill must be constructed in accordance with Council's ~~'Construction Specification, 2005'~~ AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and the following requirements:

- ~~a. All fill material imported to the site is to wholly consist of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material approved under the Department of Environment and Climate Change's general resource recovery exemption.~~
- 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 as its request.

A certificate must be submitted by a suitably qualified chartered geotechnical engineer certifying all fill has been compacted in accordance with Council's ~~Design and Construction Specification 2005~~ AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions).

27. 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.

28. Waste Management Details

- a. ~~Demolition work and construction of the development must be carried out in accordance with the Waste Management Plan, dated 15 July 11 (unless amended by other conditions of this development consent) and in accordance with Council's Waste Minimisation & Management Development Control Plan and Guide for the Demolition Stage (Section One) and the Construction Stage (Section Three) of the development.~~
- b. ~~Written records of the following items must be maintained during the removal of any waste from the site and such information submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works for each stage:~~
- ~~• The identity of the person removing the waste;~~
 - ~~• The waste carrier vehicle registration;~~
 - ~~• A description of the waste (type of waste and estimated quantity);~~
 - ~~• The site to which the waste is to be taken;~~
 - ~~• The corresponding tip docket/receipt from the site to which the waste was transferred (noting date and time of delivery, description (type and quantity) of waste);~~
 - ~~• Whether the waste is expected to be reused, recycled or go to landfill.~~

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

Requirements of the approved Waste Management Plan shall be complied with during all site preparation works, demolition and throughout all construction works. When implementing the Waste Management Plan, the developer is to ensure:

- a) The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the *Protection of Environment Operations Act 1997*
- b) All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*
- c) Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW
- d) All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it
- e) All materials and resources that are to be stored on site during construction works are contained on the site. The provisions of the *Protection of Environment Operations Act*

1997 must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses

- f) The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works
- g) Additionally, written records of the following items must be maintained during the removal of any waste from the site and such information submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works:
 - i) The identity of the person removing the waste.
 - ii) The waste carrier vehicle registration.
 - iii) Date and time of waste collection.
 - iv) A description of the waste (type of waste and estimated quantity).
 - v) Details of the site to which the waste is to be taken.
 - vi) The corresponding weighbridge tip docket/receipt from the site to which the waste is transferred (noting date and time of delivery, description (type and quantity) of waste).
 - vii) Whether the waste is expected to be reused, recycled or go to landfill.

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

28A. Waste Management Details

Prior to the commencement of any works, the on-going waste collection service must be cancelled, and the bins retrieved by the waste collection service provider.

Note: For residential properties, Council is the waste collection service provider.

28B. Garbage receptacle

- a) A garbage receptacle must be provided at the work site before works begin and must be maintained until all works are completed.
- b) The garbage receptacle must have a tightfitting lid and be suitable for the reception of food scraps and papers.
- c) The receptacle lid must be kept closed at all times, other than when garbage is being deposited.
- d) Food scraps must be placed in a garbage receptacle and not in demolition and construction waste bins.

28C. Construction Management Plan (CMP)

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 prior to the issue of a Construction Certificate.

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.
- c) 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.
 - i) Location of dedicated material storage space on site outside of TPZ's and SRZ's for retained trees.

- d) Identification of approved sediment and erosion control measures.
- e) The CMP must detail the contact information for developers, builder, private certifier and any emergency details during and outside work hours.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

29. Fulfilment of BASIX Commitments

The applicant must demonstrate the fulfilment of BASIX commitments pertaining to the development works in each stage of the development.

30. Sydney Water – s73 Certificate

A s73 Certificate must be obtained from Sydney Water and submitted to the PCA.

Note: Sydney Water requires that s73 applications are to be made through an authorised Sydney Water Servicing Coordinator. Refer to www.sydneywater.com.au or telephone 13 20 92 for assistance.

31. Damage to Council Assets

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

To protect public property and infrastructure, any damage caused to Council's assets as a result of the construction or demolition of the development must be rectified by the applicant in accordance with AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions). Rectification works must be undertaken prior to the issue of an Final Occupation Certificate, or sooner, as directed by Council.

32. Access and Mobility Compliance

A suitably qualified access consultant must certify compliance with the Access and Mobility requirements as required in Condition 10 for each Stage.

33. Internal Driveway/Vehicular Areas

The driveways and parking areas on site relevant to each stage of the development must be designed in accordance with *Australian Standards AS2890.1 Parking facilities - Off-street car parking*, *AS2890.2 Parking facilities - Off-street commercial vehicle facilities*, *AS3727 Pavements* and the following requirements:

- a) Design levels at the front boundary be obtained from Council.
- b) The driveways be rigid pavements.
- c) The driveway grades must not exceed 15 percent and changes in grade, as well as provision for three-point turn truck turning areas must be capable of accommodating Council's standard garbage vehicle.
- d) 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.

- e) Retaining walls required supporting the carriageway and the compaction of all fill batters to be in accordance with the requirements of a chartered structural engineer.
- f) The provision of safety rails where there is a level difference more than 0.3 metres and a 1:4 batter cannot be achieved.
- g) To permit adequate manoeuvring for vehicles, non-through road driveways may incorporate roll top kerbs and kerb inlet drainage control.
- h) Conduit for utility services including electricity, water, gas and telephone be provided.

Note: A construction certificate is required to be obtained prior to commencement of works.

Note: Council's standard waste collection vehicle is a heavy rigid vehicle.

34. Compliance with the Waste Management Plan

A report(s) must be prepared by the principal contractor and submitted to the principal certifying authority after the completion of each stage, including the following:

- 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) Certifying that all waste was taken to site(s) that were lawfully permitted to accept that waste;
- d) Certifying that at least 60 % waste generated was reused or recycled;

Note: 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.

The Report(s) is to be prepared on the basis of 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 should be attached to the Report.

35. Waste Management Details

The following waste management requirements must be complied with for each stage of the development:

- a) ~~The bins for the individual dwellings and the Community centre must be screened from public view.~~
- b) ~~Each dwelling/kitchen must be provided with an indoor waste/recycling cupboard for the interim storage of a minimum one day's waste generation with separate containers for general waste and recyclable materials.~~
- c) ~~Space must be provided for either individual compost containers for each unit or a communal compost container;~~

- d) ~~Note: The location of the compost containers should have regard for potential amenity impacts.~~
- e) ~~The bin carting route must be devoid of any steps.~~
- f) ~~No parking signs must be erected to prohibit parking in the waste collection vehicle turning areas.~~
- g) ~~The communal bin storage rooms must include water/hose for cleansing, graded floors with drainage to sewer, robust door(s), sealed/impervious surfaces, adequate lighting and ventilation.~~
- h) ~~A site caretaker must be employed and be responsible for moving bins to and from the bin storage area(s) and the waste collection point, washing bins and maintaining storage areas, managing the communal composting area, arranging the prompt removal of dumped rubbish, and ensuring all residents are informed of the waste management system.~~
- i) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifying Authority must obtain Council's approval of the waste and recycling management facilities provided in the development and ensure arrangements are in place for domestic waste collection by Council.

Note: Waste and recycling management facilities includes everything required for on-going waste management of the constructed stage. For example, the bin storage areas, bulky waste storage area, bin collection area, waste collection vehicle access, doors wide enough to fit the bin through, accessibility, bin carting routes etc.
- j) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, all external works including but not limited to the vehicular crossover, must be completed. For staged occupation (where the Occupation Certificate will be limited to a portion of the development):
 - i) Prior to the issue of the occupation certificate or the use commencing, whichever is earlier, for each stage of the development the waste management system (including but not limited to the bin storage room, bin holding bay, the road/accessway and vehicular crossover, loading bay and truck turning area, as applicable) for that stage, must be completed.
 - ii) Once a stage has been occupied or the use has commenced, whichever is earlier, the road, vehicular crossover, accessway, loading bay and turning areas used by the waste collection vehicle to service that stage, must be maintained in a condition acceptable to Council during all subsequent construction stages.
- k) The bin carting routes must be devoid of any steps and must be wholly within the site.

Note: Ramps between different levels are acceptable. The use of the public footpath is not acceptable.
- l) Each residential dwelling and the Leisure Centre kitchen must be provided with an indoor waste/recycling cupboard for the interim storage of waste with two separate 15-20 litre containers installed, one each for general waste and recyclable materials.

- m) Space must be provided for either individual compost containers for each unit or a communal compost container;

Note: The location of the compost containers should have regard for potential amenity impacts.

- n) The bin storage room(s) in the apartment buildings and Leisure Centre must include water or a hose for cleaning, graded floors with drainage to sewer, sealed and impervious surfaces, robust door(s), adequate lighting and ventilation, and must be lockable.
- o) A survey of the finished access way (including road, ramp, waste collection vehicle turning area and site entry/exit) to be used by HRV waste collection vehicle, must be carried out by a registered surveyor and submitted to the principal certifying authority and to Council. The survey is to include dimensions, gradients and vertical clearance. Written confirmation must be submitted to Council and to the Principal certifying authority from a qualified Traffic Engineer, that this survey confirms the finished access way within the waste collection vehicle turning path was designed and constructed in compliance with *Australian Standard AS2890.2-2002 Parking Facilities Part 2: Off-street commercial vehicle facilities for heavy rigid vehicles* (for layout, dimensions, manoeuvring clearances, gradients, rates of change of grade, vertical clearance, vehicle ground clearance).
- p) "No parking" signs must be erected to prohibit parking in the waste collection vehicle turning area(s).

36. Garbage Collection Easement

For the purpose 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 after the completion of each stage of the development.

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.

37. Completion of Landscaping

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

38. Maintain Canopy Cover

- a) To maintain canopy cover, trees are to be planted in accordance with the approved Landscape Plans ~~Plans No.1 and 2 prepared by Michael Zinn dated December 2010~~

prepared by Deep Rainforest, dated July 2021 in the relevant stages of the development.

- b) A minimum of 50 trees that are identified on the landscape plan must be as per the following:
 - i) All replacement trees must be located in either front or rear setbacks and planted 4 metres or greater from the foundation walls of the approved development.
 - ii) The pot size of the replacement trees must be a minimum 45 litres
 - iii) All replacement trees must be a minimum of 3 metres in height.
 - iv) All replacement trees must have the potential to reach a mature height greater than 10 metres.

39. Final Certification

~~The project arborist must assess the condition of the retained trees and their growing environment and make recommendations for, and if necessary carry out remedial actions after the completion of each stage of the development and prior to the issue of the occupation certificate,~~

~~Following the final inspection and the completion of all remedial works, the Project Arborist must certify completed works have been carried out in compliance with the approved plans, conditions of consent and AS 4970-2009.~~

The AQF 5 Project arborist must submit to the Principal Certifying Authority a certificate that includes the following:

- a) All tree protection requirements complied with the as approved tree protection plan for the duration of demolition and/or construction works and;
- b) All completed works relating to tree protection and maintenance have been carried out in compliance with the conditions of consent and approved plans and;
- c) Dates, times and reasons for all site attendance and;
- d) All works undertaken to maintain the health of retained trees and;
- e) Details of tree protection zone maintenance for the duration of works and;
- f) A statement to confirm that tree replacement planting meets NATSPEC guidelines and the approved landscape plan.

Note: Copies of monitoring documentation may be requested throughout DA process

40. Installation of Air Conditioner

To protect the amenity of adjacent properties, the condenser unit for the air conditioner must be sited a minimum of 3 metres from the property boundary of any adjoining residential premises unless a certificate has been prepared by a suitably qualified person confirming that the unit has been tested for heating and cooling on the highest settings and that the noise levels generated do not exceed 5 dB(A) above background noise levels when tested at the property boundary between 8 pm and 10 pm.

41. S7.11 Infrastructure Contributions

The payment to Council of a contribution of the following amounts for ~~ninety-five~~ 88 additional dwellings towards the cost of infrastructure identified in Council's *Development Contributions Plan 2007-2011*:

- ~~Stage 1 — \$109,586.95 for thirteen self contained dwellings~~
- ~~Stage 2 — \$140,324.65 for fourteen self contained dwellings~~
- ~~Stage 3 — None~~
- ~~Stage 4 — \$110,255.25 for eleven self contained dwellings~~
- ~~Stage 5 — \$300,695.35 for thirty units~~
- ~~Stage 6 — \$280,649.35 for twenty-eight units~~

Stage 1: \$400,932 for all roads, Leisure centre, (4 units) and all 40 villas

Stage 2: \$260,605.80 for Apartment No. 2 - 26 units

Stage 3: \$180,419.40 for Apartment No. 1 - 18 units

Credit of existing dwelling house at \$20,000 for a total of \$862,050

The above payments must be made prior to the issue of the Occupation Certificate for that stage of the development.

Note: The contribution is calculated at the rate of \$10,023.30 x ~~96~~ 88 Seniors Housing dwellings and includes a credit of \$20,000 for the existing dwelling-house as calculated at the 24 January 2012. 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*

41A. Acoustic Verification

- a) Prior to the Issue of an Occupation Certificate, a report must be prepared by a suitably qualified Acoustic Consultant and submitted to the Principal Certifying Authority and the Council. The report must verify the development has been constructed in accordance with the Addendum Acoustic Assessment ref: 2104729, prepared by Wilkinson Murray, dated 9 July 2021 and the specific 'Noise Control Treatment Inclusions' detailed in the Addendum to RWDI Report 2104729, prepared by RWDI Australia Pty Ltd, dated 24/8/21;
- b) The Report must include suitable mitigation measures for any non-compliances identified, which shall be implemented upon written approval of the Council and prior to the issue of an Occupation Certificate.

41B. Certification of RFS Requirements

A Certificate prepared by a BPAD accredited Bushfire Consultant is to be provided to the Principal Certifying Authority (PCA) certifying the completion of all works required by the NSW RFS General Terms of Approval (GTAs) prior to the issue of the Occupation Certificate.

OPERATIONAL CONDITIONS

42. 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.

43. Car Parking and Deliveries

All car parking must be constructed and operated in accordance with *Australian Standard AS2890.1-2004 Off-street car parking* and *Australian Standard AS2890.2-2002 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) All vehicular entry on to the site and egress from the site shall be made in a forward direction.

44. Waste Management

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

The waste management on site must be in accordance with the following requirements:

- a) The approved Waste Management Plan is to be implemented throughout the ongoing use of the development.
- b) All commercial tenant(s) must keep written evidence on site of a valid and current contract with a licensed waste contractor(s) for the regular collection and disposal of the waste and recyclables that are generated on site.
- c) A Work, Health & Safety (WHS) risk assessment is to be carried out by a suitably qualified person with qualifications in Work, Health & Safety Legislation with specific regard to waste management. The recommendations of the WHS Risk Assessment are to be implemented as required.
- d) All commercial tenant(s) must have a sufficient number of bins to contain the volume of waste and recycling expected to be generated between collection services.
- e) A site caretaker must be employed and be responsible for moving bins where and when necessary, washing bins and maintaining waste storage areas and signage, managing the communal composting area and worm farm, managing the bulky item storage area(s), managing the clothing/donation bins, arranging collections where the service is not provided by Council (e.g. clothing bins, e-waste), arranging the prompt removal of dumped rubbish, arranging for shopping trolleys to be promptly returned to the local shopping centre(s), ensuring the recycling bins are free of contamination (which includes but is not limited to garbage, plastic bags, clothing, etc.), ensuring the commercial waste and recycling is kept separate from the residential waste and recycling (and vice versa), addressing overflowing bins and pest infestations, liaising

with Council on waste matters, and ensuring all residents and commercial tenants are informed and kept up to date on the use of the waste management system. The site caretaker must be employed for a sufficient number of hours each week to allow all waste management responsibilities to be carried out to a satisfactory standard.

- f) Adequate signage is to be provided and maintained on how to use the waste management system and what materials are acceptable for recycling within all waste storage areas of the development. Signage is also to be provided and maintained which clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin. Signage is also to be provided in locally appropriate culturally and linguistically diverse (CALD) community languages.

Note: Council may be able to assist with signage.

- g) All surfaces trafficable by the waste collection vehicle must be kept in good and substantial repair.
- h) Vegetation adjacent to the driveway/accessway/roadway must be regularly pruned to maintain a 4.5m vertical clearance over the driveway/accessway/roadway and to ensure the vegetation does not encroach on the vehicular travel path.

45. 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.

46. 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.

46A. Operation of the Leisure Centre

- a) The hours of operation of the Leisure Centre are restricted to those time listed below:

Monday to Thursday:	7am to 10pm
Friday & Saturday:	7am to 12midnight
Sunday & Public Holidays:	8am to 10pm
- b) Operational sound transmission from the use of the Leisure Centre, inclusive of mechanical plant, must not exceed 35dB(A) when measured as a Leq 15 minute within the living areas of any of the first floor apartments numbered 101-104, between 7am and 10pm, Monday to Saturday and 8am and 10pm on Sundays and Public Holidays.
- c) Noise generated by operation of the Leisure Centre after 10pm must not be audible within any of the first floor apartments numbered 101-104.
- d) All glazing (windows and doors) to the Pool area and Fitness room must be kept closed after 6pm daily.

- e) The Alfresco area adjoining the northern elevation of the Pool area and Bar/Lounge areas must not be used after 10pm daily.
- f) All facilities within the Leisure Centre must only be used by residents of the independent living units and, when in accompaniment of a resident, their guests.
- g) The outdoor putting green and bocce court must not be artificially illuminated.
- h) Exercise classes are limited a maximum of 25 people per lesson.
- i) Aqua classes are limited to a maximum of 12 people per class.
- j) Cleaning and maintenance activities within the Leisure Centre must be carried out within the approved Leisure Centre hours of operation.
- k) The Leisure Centre must be operated generally in accordance with the approved Operations and Activities Schedule.
- l) l) Except as otherwise stated by the conditions of this consent, operational sound transmission from use of the Leisure Centre, inclusive of mechanical plant, must not exceed the following levels when assessed as a Leq 15 minute at any residential premises:
 - i) 44dB(A), 7am to 6pm on Monday to Saturday and 8am to 6pm on Sunday and public holidays;
 - ii) 43db(A), 6pm to 10pm on Monday to Sunday;
 - iii) 36dB(A) after 10pm, Friday and Saturday.

Note: Notwithstanding the requirements of this condition, the Protection of the Environment Operations (Noise Control) Regulation regarding residential premises apply to this development.

ADDITIONAL CONDITIONS APPLICABLE TO STAGE 1 OF THE DEVELOPMENT

REQUIREMENTS DURING DEMOLITION AND CONSTRUCTION
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47. Dam water

Discharge of water from the dam is to be undertaken in accordance with the publication 'Soils and Construction 2004 (Bluebook)' and the *Protection of the Environment Operations Act 1997* by way of implementing appropriate measures to prevent sediment run-off and/or turbid water entering the creek. Flow rates are to be restricted so that no bank scouring or erosion occurs due to the discharge.

48. Demolition

All demolition work must be carried out in accordance with *Australian Standard AS2601-2001 Demolition of structures* and the following requirements:

- a) Demolition material is to be disposed of to an authorised recycling and/or waste disposal site and/or in accordance with an approved waste management plan.

- b) Demolition works, where asbestos material is being removed, must be undertaken by a contractor that holds an appropriate licence issued by *SafeWork NSW* in accordance with the *Work Health and Safety Regulation 2017* and be appropriately transported and disposed of in accordance with the *Protection of the Environment Operations (Waste) Regulation 2014*; and
- c) On construction sites where buildings contain asbestos material, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm must be erected in a prominent position visible from the street.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

49. Services to be provided by retirement village operator

The applicant must demonstrate that there are contracts in place which require the retirement village operator to provide on-site services to all stages of the development prior to first occupation as follows:

- a) The operator of the retirement village must provide on-site meals, cleaning services, personal care and nursing care to residents 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) An on-site 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.

50. Community Centre

The temporary community leisure centre to be used for Stages 1 and 2 as approved under this development consent must be completed and be operational from issue of the first occupation certificate. The approved Leisure Centre is to be completed prior to release of the final occupation certificate released for Stage 2.

51. Site Contamination

The applicant must provide documentation from a suitably qualified environmental consultant verifying that the site 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 "Contamination Assessment" prepared by Douglas Partners Pty Ltd document number 71406.01 dated March 2010.

52. On-site sewerage disposal facility

- a) 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) - On-site domestic wastewater management and Management of Private Recycled Water Schemes*.
- b) All construction works including the road works relating to the approved on-site sewerage management facility must be completed and be operational.
- c) In the event where a sewer connection is made with Sydney Water, the developer shall be responsible to remove sewage tanks, associated fittings and the service access road. The area is to be reinstated and landscaped. An amended detailed landscape plan for this area is to be lodged with Council for review prior to sewer connection or final occupation certificate, whichever comes first.

53. Bus service

A dedicated shuttle bus service for the use of the residents of the development must be provided ~~in accordance with the Statement of Environmental Effects~~. This bus is to be capable of carrying at least 12 passengers.

54. Stormwater Drainage

The stormwater drainage system for impervious areas within the site 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) Impervious areas to be connected to the existing internal drainage system and the proposed on-site detention system, draining to the natural watercourse drainage system.
- b) In order to avoid nuisance flooding, upstream flows are to be captured by a swale drainage system capable of draining the 100 year average recurrence interval (ARI) upstream storm flow and conveyed overland to a Council-controlled drainage system.
- c) All pits are to be benched off to their outlet inverts. Sumps are not required anywhere in the drainage system.
- d) All pits are to be cast in-situ, with integral extended kerb inlets designed and constructed on grade and at sag points.

- e) A pit and pipe drainage system is to be constructed within the widened Galston Road road reserve. Council's standard extended kerb inlet pits and pipes are to be designed for an alignment determined by edge of seal or kerb and guttering resulting from design of right turn treatments, medians and access road works.

Note 1: A construction certificate is required to be obtained for the above works.

Note 2: The design of the relevant road works and all other related works are to be endorsed by Roads and Marine Services of NSW prior to the issue of the Construction Certificate.

55. On Site Stormwater Detention

Provision must be made for design and construction of on-site stormwater detention system by a chartered civil engineer and constructed in accordance with the following requirements:

- a) Have a capacity of not less than 71150 cubic metres, and a maximum discharge (when full) of 700 482 litres per second.
- b) High Early Discharge pits are not used.
- c) Have a surcharge/inspection grate located directly above the outlet. Emergency overflow weir systems shall be designed and constructed for excesses of the 100 year ARI and disposed of to the downstream drainage system.
- d) Discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved drainage system.

Note: A construction certificate is to be obtained prior to commencement of such works.

56. Road Works

All road works approved under this consent must be constructed in accordance with Council's ~~Civil Works Design and Construction Specification, 2005~~ AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and the following requirements:

- a) All centre medians, pedestrian refuges, bus stops and shelters with accessible pavements, deceleration/merge lane, channelised right turn treatment, road pavement and resealing work, and associated shoulder pavement and sealing works as applicable to be constructed generally in accordance with conditions of this development consent and RMS-endorsed construction certificate plans.
- b) To provide adequate pedestrian access, Council's standard 80mm thick concrete footpaths is to be reconstructed within the road reserve across the frontage of the site, to connect the site's internal pathway system with Council's paved footpath network.
- c) For safety, the Galston Road frontage of the site must be adequately illuminated with Council's standard luminaries in accordance with *Australian Standard AS1158 Lighting for roads and public spaces* (lighting Category V3).
- d) 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.

Note 1: A construction certificate is to be obtained for the above works

Note 2: Pursuant to the Roads Act 1993, the roads works plans must be submitted to NSW RMS's Traffic Project Section, Parramatta Branch, for consideration and approval prior to release of any Construction Certificate. Lodgement of construction plans with RMS may incur additional fees for inspections, processing costs and performance bonds.

Note 3: Signage, line marking, and services relocation must be shown on the construction plans.

57. Road Widening

All structures and truck standing areas are to be located clear of the lot area required to widen Galston Road.

58. Vehicular Crossings

A separate application under the *Local Government Act 1993* and the *Roads Act 1993* must be submitted to Council for the installation of the new concrete vehicular access crossings and gutter laybacks and the removal of any redundant crossing. The vehicular crossing must be constructed in accordance with ~~Council's Civil Works Design, 2005~~ AUS-SPEC Specifications (www.hornsby.nsw.gov.au/property/build/aus-spec-terms-and-conditions) and the following requirements:

- a) Any redundant crossings to be removed and matched to finished ground levels.
- b) Crossings shall be designed and constructed as standard concrete crossing slabs and laybacks to ensure continuity of footpath grade without use of pram ramps.
- c) The footway area to be restored by turfing.
- d) Council's standard road shoulder to be constructed adjacent to the crossings to match the channelised carriageway.

Note: An application for a vehicular crossing can only be made to one of Council's Authorised Vehicular Crossing Contractors (or be the subject of a Construction Certificate application to Council as Roads Authority). You are advised to contact Council on 02 9847 6940 to obtain a list of contractors.

Note 2: A construction certificate is to be obtained for such works.

59. Creation of Easements

The following matters must be nominated on the title of the subject property under s88B of the *Conveyancing Act 1919*:

- a) The creation of an appropriate "Positive Covenant" and "Restriction as to User" over the constructed on-site detention/retention systems and outlet works, within the lots in favour of Council in accordance with Council's prescribed wording. The position of the on-site detention system is to be clearly indicated on the title.
- b) To register the OSD easement, the restriction on the use of land "works-as-executed" details of the on-site-detention system must be submitted verifying that the required storage and discharge rates have been constructed in accordance with the design requirements. The details must show the invert levels of the on site system together

with pipe sizes and grades. Any variations to the approved plans must be shown in red on the “works-as-executed” plan and supported by calculations.

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

- c) The creation of a positive covenant over requiring the footings of any structures on land that has been filled more than 300mm must be designed by a chartered structural engineer.
- d) The creation of a drainage easement in favour of the subject site over the adjoining property Lot 21, DP 851940.

60. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed road assets, refuges, medians, pavements, kerb & gutter, public drainage systems, driveways, internal drainage works, catch drains and on-site detention systems relevant to each stage of the development.

61. Restriction on Occupation – Housing for Seniors or People with a Disability

A restriction as to user must be created under s88BE 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.
- 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.

OPERATIONAL CONDITIONS

62. Noise – plant and Machinery

~~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).~~

~~An acoustic assessment is to be undertaken by a suitably qualified environmental consultant within 60 days of occupying the site in accordance with the *Environment NSW Industrial Noise Policy (2000)*, *Council's Policy and Guidelines for Noise and Vibration Generating Development (Acoustic Guidelines V.5, 2000)* and the *DECC's Noise Guide for Local Government (2004)*. The assessment must be submitted to Council for review. Should the assessment find that noise from the premise exceeds 5dB(A) appropriate measures must be employed to rectify excessive noise.~~

- a) All mechanical plant noise generated by the development when assessed as a Leq, 15 minutes at any affected point on or within any residential premises must not exceed the following criteria:
- i) i. 7am to 6pm, 44dB(A);
 - ii) ii. 6pm to 10pm, 43dB(A);
 - iii) iii. Between 10pm AND 7am (8am on Sundays), 36dB(A).
- b) Where such noise being emitted to residential premises possess tonal, beating or similar characteristics a correction factor of 5dB(A) shall be added to the measured level in accordance with the NSW EPA's Noise Policy for Industry.

Note: Notwithstanding the requirements of this condition, the Protection of the Environment Operations (Noise Control) Regulation regarding residential premises apply to this development.

ADDITIONAL CONDITIONS APPLICABLE TO STAGE 3 OF THE DEVELOPMENT

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

63. Food Premises

~~The fit out and operation of that part of the building to be used for the manufacture, preparation or storage of food for sale, must be in accordance with Australian Standard AS4674-2004 Design and fit out of food premises, the Food Act 2003, and the Food Regulation 2015 and the Food Standards Code developed by Food Standards Australia New Zealand. Food Standards 3.2.2 and 3.2.3 are mandatory for all food businesses.~~

- a) The fit out and operation of that part of the building to be used for the manufacture, preparation or storage of food for sale, must be in accordance with *Australian Standard AS4674-2004 Design and fit out of food premises*, the *Food Act 2003*, and the *Food Regulation 2015* and the *Food Standards Code developed by Food Standards Australia New Zealand*. *Food Standards 3.2.2 and 3.2.3* are mandatory for all food businesses.

Note: Walls are to be of solid construction.

- b) Prior to the commencement of the business, the operator is required to contact Council's Public Health Team to arrange for a Health Officer to carry out an inspection of the premises to ensure compliance with the *Australian Standard AS4674-2004 Design and fit out of food premises*, the *Food Act 2003*, *Food Regulation 2015* and the *Australia New Zealand Food Standards Codes*.
- c) A letter of compliance provided by Hornsby Shire Council's Health Officer must be submitted to the Principal Certifier prior to an occupation certificate being issued.

Note: Council's Public Health team can be contacted on 02 9847 6014

64. Grease Trap Installation

A permanent grease trap must be installed for all 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.

65. Kitchen Exhaust Installation

A kitchen exhaust system must be designed and installed to effectively prevent air pollution in accordance with the *Protection of the Environment Operations Act 1997*.

66. Community Centre completion

The approved community centre/Leisure Centre for the retirement village must be completed and operational.

CONDITIONS OF CONCURRENCE - TRANSPORT FOR NSW

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.

67. Works within Galston Road and RMS reserve

- a) A Channelised Right Turn (CHR) must be provided on Galston Road, at its intersection with the proposed access to the subject site to maintain traffic efficiency and road safety. The CHR facility is to be constructed and be operational prior to the issue of the Occupation Certificate for Stage 1 of the proposed development.

The abovementioned works must be designed in accordance with RMS's Road Design guidelines and Australian Codes of Practice. The plans must be submitted prior to the release of the Construction Certificate for Stage 1 and be endorsed by a suitably qualified person. The certified copies of the civil works plans must be submitted to RMS for consideration and approval prior to the commencement of any road works associated with the development.

Note 1: The proposed CHR would require local widening of Galston Road.

Note 2: The RMS fees for administration, plan checking, civil works inspection and project management is to be paid by the applicant prior to the commencement of any road works.

Note 3: The applicant may be required to enter into a Work Authorisation Deed (WAD) for the abovementioned works on the classified road system. The WAD is required to be executed to RMS's satisfaction.

Note 4: The developer is responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.

- b) No works are permitted within the restricted development area along the Galston Road frontage of the site and subject to Road widening.

- c) The design and construction of a vehicular crossing fronting Galston Road Australian Standards specifications and RMS's guidelines.

Note: Please contact Project Service Manager, Traffic Projects Section, Parramatta on 88492 144 for details of design requirements.

- d) The construction and demolition vehicles must be contained wholly within the site as a work zone permit is not approved on Galston Road.
- e) No "Zebra Crossings" are permitted at the entrance to the site on Galston Road or within the site.

68. Works within the site

A 2.5 metre wide median is to be provided at the entrance to the site in lieu of the Zebra Crossing, to improve the safety of pedestrians and cyclists travelling along Galston Road.

69. Excavation works

- a) Details drawings and geotechnical reports relating all excavation works in the relevant stages of the development must be submitted to RMS for assessment, prior to the release of the construction certificate for that stage. The report(s) must include the following key issues:

- i) The impact of excavation/rock anchors on the stability of Galston Road and detailing how the carriageway would be monitored for settlement.
- ii) The impact of excavation on the structural stability of Galston Road.
- iii) Any other relevant issue that needs to be addressed, being particular to the site.

Note1: The applicant/developer is to meet the full cost of assessment by the RMS.

Note 2: Please contact RMS's Project Engineer, External Works on 88492 114 (Fax: 88492766) for information in this matter.

- b) Should it be necessary to excavate below the level of the footing of the adjoining roadway, the person acting on this development consent must provide a notice of intention to commence works below the base of the footings, to the owner of the roadway, at least seven days prior to the commencement of such works.

70. Design and Construction

The design and construction of the gutter crossing works on Galston Road shall be in accordance with TfNSW requirements. Details of these requirements should be obtained by email to developerworks.sydney@rms.nsw.gov.au. Detailed design plans of the proposed gutter crossing are to be submitted to TfNSW for approval prior to the issue of a Construction Certificate and commencement of any road works. Please send all documentation to development.sydney@rms.nsw.gov.au.

A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by TfNSW.

71. Stormwater discharge

The post-development storm water discharge from the subject site into the TfNSW drainage system should not exceed the pre-development discharge. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system on Galston Road should be submitted to TfNSW for review.

A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

72. Construction Vehicles

All vehicles are to be wholly contained on site before being required to stop.

73. Swept Path

The swept path of the longest vehicle entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.

74. Road Occupancy Licence (ROL)

A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flows on Galston Road during construction activities. A ROL can be obtained through

<https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

75. Public utilities

The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.

76. Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

- a) The provision of water, electricity and gas must comply with Table 6.8c of *Planning for Bush Fire Protection 2019*.

77. Landscaping Assessment

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions shall apply:

- a) Landscaping of the site should comply with following principles of Appendix 4 of *Planning for Bush Fire Protection 2019*:

- b) Suitable impervious areas are provided immediately surrounding the building such as courtyards, paths and driveways.
- c) Grassed areas, mowed lawns or ground cover plantings are provided in close proximity to the building.
- d) Planting is limited in the immediate vicinity of the building.
- e) Planting does not provide a continuous canopy to the building (i.e. trees or shrubs should be isolated or located in small clusters).
- f) Landscape species are chosen in consideration needs of the estimated size of the plant at maturity.
- g) Species are avoided that have rough fibrous bark, or which keep/shed bark in long strips or retain dead material in their canopies.
- h) Smooth bark species of tree are chosen which generally do not carry a fire up the bark into the crown.
- i) Planting of deciduous species is avoided which may increase fuel at surface/ ground level (i.e. leaf litter).
- j) Climbing species are avoided to walls and pergolas.
- k) Combustible materials such as woodchips/mulch and flammable fuel are stored away from the building.
- l) Combustible structures such as garden sheds, pergolas and materials such timber garden furniture are located way from the building.
- m) Low flammability vegetation species are used.

78. Emergency and Evacuation Planning Assessment

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

- a) A Bush Fire Emergency Management and Evacuation Plan must be prepared and be consistent with the NSW RFS document: *A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan*.
- b) The Bush Fire Emergency Management and Evacuation Plan should include planning for the early relocation of occupants.

Note: A copy of the Bush Fire Emergency Management and Evacuation Plan should be provided to the Local Emergency Management Committee for its information prior to occupation of the development.

- 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 1992

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.

Dial Before You Dig

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

Telecommunications Act 1997 (Commonwealth)

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

Asbestos Warning

Should asbestos or asbestos products be encountered during demolition or construction works, you are advised to seek advice and information prior to disturbing this material. It is recommended that a contractor holding an asbestos-handling permit (issued by *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

www.adfa.org.au

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 premises 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.

No cost to RMS

All works and regulatory signage are to be at no cost to RMS.