

COUNCIL ASSESSMENT REPORT

SYDNEY NORTH PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSNH-242 - DA/484/2011/J
PROPOSAL	Section 4.56 Modifications to internal road design, community centre design, signage and conditions of development consent.
ADDRESS	392 Galston Road (Lot 1 DP 1211969)
APPLICANT	Vigor Master
OWNER	392 Galston Investment Pty Ltd
DA LODGEMENT DATE	1 July 2021
APPLICATION TYPE	Section 4.56 Modification
REGIONALLY SIGNIFICANT CRITERIA	Section 4.56 Modification
CIV	\$23,792,750.00
CLAUSE 4.6 REQUESTS	N/A
KEY SEPP/LEP	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy No. 55 Remediation of Land</i> • <i>State Environmental Planning Policy (State and Regional Development) 2011</i> • <i>State Environmental Planning Policy (Infrastructure) 2007</i> • <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i> • <i>Hornsby Local Environmental Plan 2013</i>
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	1/1
DOCUMENTS SUBMITTED FOR CONSIDERATION	<p>Statement of Environmental Effects prepared by Vigor Master.</p> <p>Architectural Plans prepared by Vigor Master (as Amended).</p> <p>Copy of Transport for NSW correspondence dated 22 February 2022 and 23 December 2021.</p>

SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	N/A
RECOMMENDATION	Refusal
DRAFT CONDITIONS TO APPLICANT	No – Application recommended for refusal
SCHEDULED MEETING DATE	23 February 2022
PREPARED BY	Ben Jones
DATE OF REPORT	22 February 2022

EXECUTIVE SUMMARY

The application seeks to modify development application DA/484/2011 under Section 4.56 the *Environmental Planning and Assessment Act 1979*.

On 20 September 2011, the Joint Regional Planning Panel resolved to refuse DA/484/2011. The applicant appealed the refusal of the development application and on 12 January 2012 the Land and Environment Court upheld the appeal against the refusal, granting a deferred commencement consent, for a seniors living development comprising 76 self-care dwellings and a community centre.

The subject application seeks the following amendments;

- Road design - minor adjustments to the internal roads, changes to the public road design and staging.
- Community Centre - internal layout changes and external adjustments to the permanent community centre for National Construction Code compliance.
- Consent conditions - changes to the terms of consent conditions 27B, 56, 57, 61B, and 66 to 78; and
- Proposed new signage at the village entrance.

DA/484/2011 has previously been subject to numerous amendments, most of which have been minor and targeted to a specific aspect of the development. Modifications of note include,

- DA/484/2011B/B approved on 5 February 2014. Modification B staged the development into three stages and outlined works to be completed in each stage.
- On 24 October 2019, modification application (DA/484/2011/H) was lodged. Modification 'H' comprised amendments to facilities provided within the approved community centre, modifications to the building and accessway design for villas in Stage 1. Modification 'H' was approved by the Sydney North Planning Panel on the 17 December 2020.
- On 8 April 2021, modification application (DA/484/2011/I) was lodged. Modification 'I' comprised amendments to the staging arrangement. Modification 'I' was approved by the Sydney North Planning Panel on the 13 October 2021.

The L shaped site comprises a single allotment of 3.641ha which adjoins the southern extremity of the Galston Village town centre. The site is zoned RU2 – Rural Landscape and relies upon a Site Compatibility Certificate to permit the use of the site for seniors housing. The site currently contains dwellings and infrastructure which has been constructed under Stage 1 of the development consent. Stages 2 and 3 have not yet been commenced, and as such the bulk of the site remains a construction site.

The applicant seeks to amend the design of the Galston Road driveway access, which is described as follows;

The adjustments proposed to the internal roads are the turning radius of each road at the intersection near the Galston Road village entrance and the alignment of the section of the road to the north of the permanent community centre.

Transport for New South Wales (TfNSW) reviewed the proposed modifications under Section 138 of the *Roads Act 1993*. TfNSW provided three requests for additional detail to the applicant in response to the proposed updated intersection design, and the existence of the temporary unauthorised crossing that was constructed during 2021. In addition to these requests, a meeting was held on 30 November 2021 between TfNSW representatives, Council staff and the applicant to discuss the path forward for the proposed design and retrospective approval for the unauthorised constructed crossing.

The applicant has provided information in response to the TfNSW requirements following each request from the agency, however was unable to satisfy the requirements. On 22 February 2022, Transport for New South Wales provided an additional response that outlined that they were unable to support the unauthorised crossing or the ultimate intersection design and requested further detail be provided.

Council notes that the applicant has on 4 separate occasions submitted the proposed intersection design to TfNSW for approval and has on four separate occasions failed to obtain the approval of the consent authority.

Consequently, pursuant to the Section 138(2) of the *Roads Act 1993*, and the requirements of Section 4.47(2) and 4.47(4) of the *Environmental Planning and Assessment Act 1979* Council cannot recommend consent to the development as the concurrence of TfNSW is required and has not been provided.

Council further notes that the proposed amended intersection design fails to satisfy Clause 101(2)(b)(i) of *State Environmental Planning Policy (Infrastructure) 2007* which requires development to demonstrate that the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of the design of the vehicular access to the land.

For the reason outlined above, Council recommends that the application be refused. Council notes that this would not prevent the applicant from ever building the intersection with Galston Road, it would merely cause the development to revert to the previously approved development under DA/484/2011 and the previously applied Conditions 66 to 79.

1. THE SITE AND LOCALITY

1.1 The Site

The L shaped site comprises a single allotment of 3.641ha. The site has a frontage of 132m to the southern side of Mid-Dural Road and a frontage of 101m to the western side of Galston Road.

The majority of the site has been previously cleared for agricultural use and is currently a construction site for Stage 1 of the approved residential aged care facility, which comprises 25 of the of 76 approved self-care dwellings. The site is gently sloping and is slightly elevated at the frontages to Galston Road and Mid-Dural Road and through the central part of the site. The majority of the site falls to the western and southern boundaries.

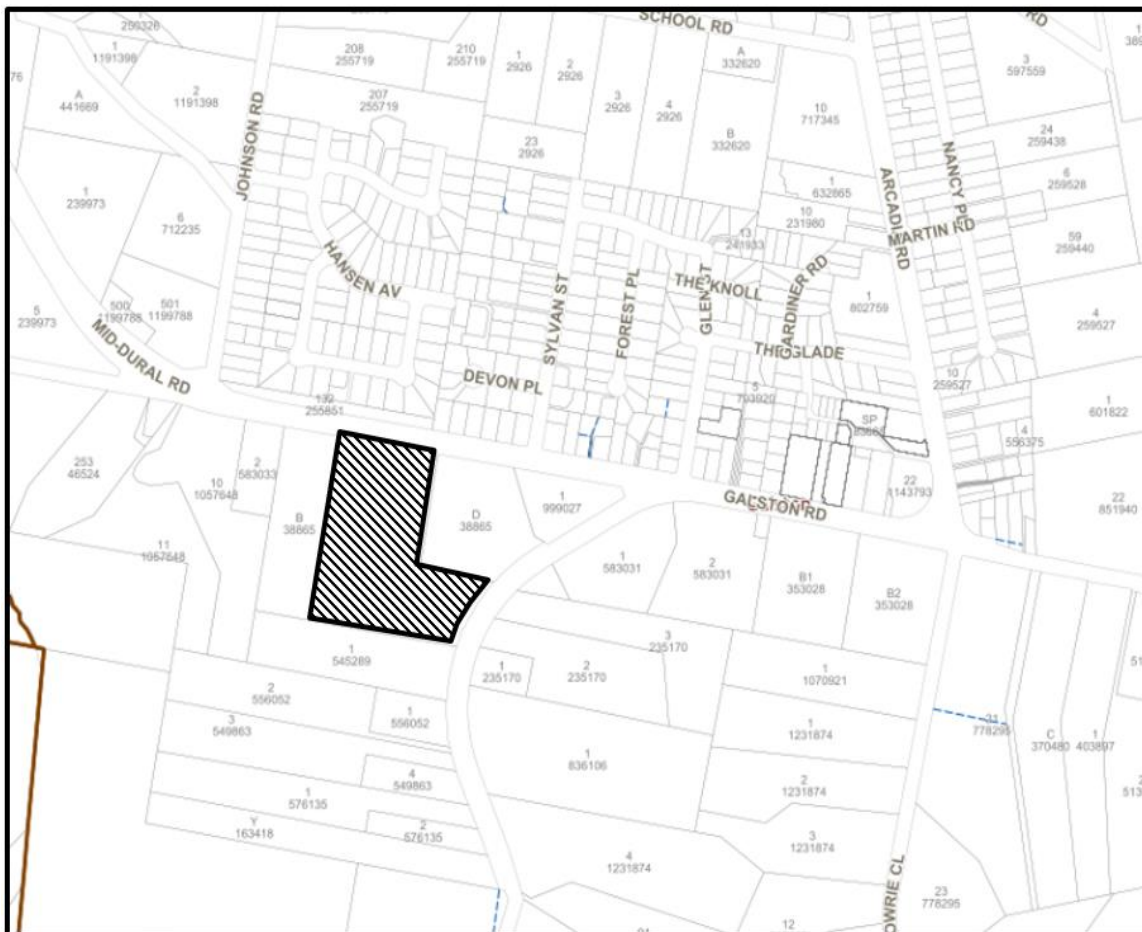


Figure 1: Locality Plan - Site hatched. Note Galston Village to the north of the site, with larger Rural Land holdings to the east, south and west.



Figure 2: Aerial view of site as at 7 August 2021

1.2 The Locality

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

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

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

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

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal seeks consent for a Section 4.56 modification to the development consent comprising:

- Road design - minor adjustments to the internal roads, changes to the public road design and staging.
- Community centre - internal layout changes and external adjustments to the permanent community centre for National Construction Code compliance.
- Consent conditions - changes to the terms of consent conditions 27B, 56, 57, 61B, and 66 to 78; and
- Proposed new signage at the village entrance.

Further detail regarding these changes is discussed below:

2.1.1 Road Design and Staging

The applicant describes the proposed changes, including the rational for these changes as follows:

The adjustments proposed to the internal roads are the turning radius of each road at the intersection near the Galston Road village entrance and the alignment of the section of the road to the north of the permanent community centre.

The reasons for these changes are to enable easy vehicle manoeuvres at the entrance intersection and to locate the roads further away from the villas where possible. The proposed changes to the public road works have been made in response to the comments received from the TfNSW.

For Galston Road frontage, a left in/left out vehicle access will be construction for stages 1 and 2, and similar arrangement will additional deceleration lane will be constructed for stage 3.

For Mid Dural Road, a left in/left out vehicle access and deceleration lane will be constructed as part of stage 3.

A temporary vehicular crossing from Galston Road was built in September 2021 as reinforced concrete slab on natural ground with a thickness at 170-220, SL92 mesh top and bottom, and 32 Mpa concrete. It is intended to use the temporary vehicular crossing for a maximum 12 months. The construction of the Stages 1 & 2 vehicle access involves the widening of the temporary crossing. Any existing structures that are inconsistent with the approved vehicle access for Stages 1 & 2 and Stage 3 will be demolished and rectified.

The boardwalk connecting the roundabout to the previous approve bus stop on Mid Dural Road has been removed. The staging arrangement has been amended accordingly with further changes to the internal roads located on the eastern and western side of the roundabout. The internal road to the west of the roundabout will become part of the stage 3 while the internal road to the east of the roundabout will become part of the stage 2.

The proposed changes to conditions 66 to 78 relate to the updating of the conditions of concurrence from Transport for NSW in response to the amended vehicular access design.

2.1.2 Community Centre

The applicant describes the changes to the community centre as follows:

- *To achieve NCC compliance, two exits are added to the basement discharging people to the road on the ground level.*
- *The dance floor on the ground level has been deleted to achieve acoustic requirements.*
- *Other changes are made to the kitchen, coffee bar, toilets and bathrooms, and room layouts in the basement to improve accessibility.*

The proposed changes to conditions 27B, 56, 57, 61B, relate to conditioning of the community centre. Condition 27B and 61B deal with acoustic requirements, with the applicant submitting amended acoustic detail to support these changes. The deletion of condition 56 and 57 is also proposed as these conditions relate to the establishment of a commercial kitchen, which is no longer proposed.

2.1.3 Signage

The proposes the installation of three business identification signs, described in the SEE as follows

Three structures are proposed inside the village to use as signages. Two of them are located near the village's Galston Road entrance and the other is behind the road intersection.

The two smaller ones are made of concrete blocks with stone cladding and render finishes. One is decorative with village operator's logo to help identify the village entrance, and the other one will support the village map to help visitors to navigate the village. The third structure contains a sandstone base with the village's logo. It is a decorative feature being part of the landscape design.

The signage would be located facing the Galston Road frontage, as depicted in Figure 3 below.

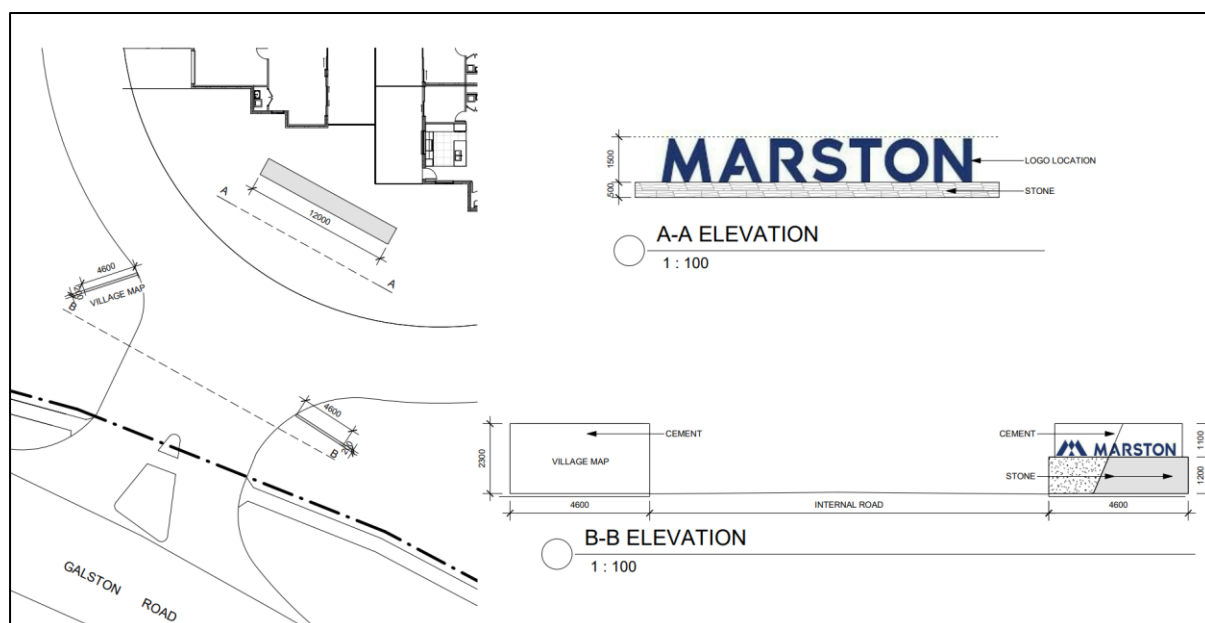


Figure 3: Proposed Signage

The key development data is provided in **Table 1**.

Table 1: Key Development Data

Control	Proposal
Site area	N/A - No change proposed
GFA	N/A - No GFA for site and no additional floor space sought under modification
FSR (retail/residential)	N/A - No FSR for site and no additional floor space sought under modification
Clause 4.6 Requests	No
No. of apartments	No change - 76 independent Living Units Approved
Max Height	Compliant – Proposed community centre changes do not change the built form. Max signage height is 2.3m.
Landscaped area	N/A - No change sought to landscaped areas/ proposed changes do not decrease landscaped area on site.
Car Parking spaces	N/A - No change sought to approved number of parking spaces
Setbacks	N/A - No change to approved setbacks

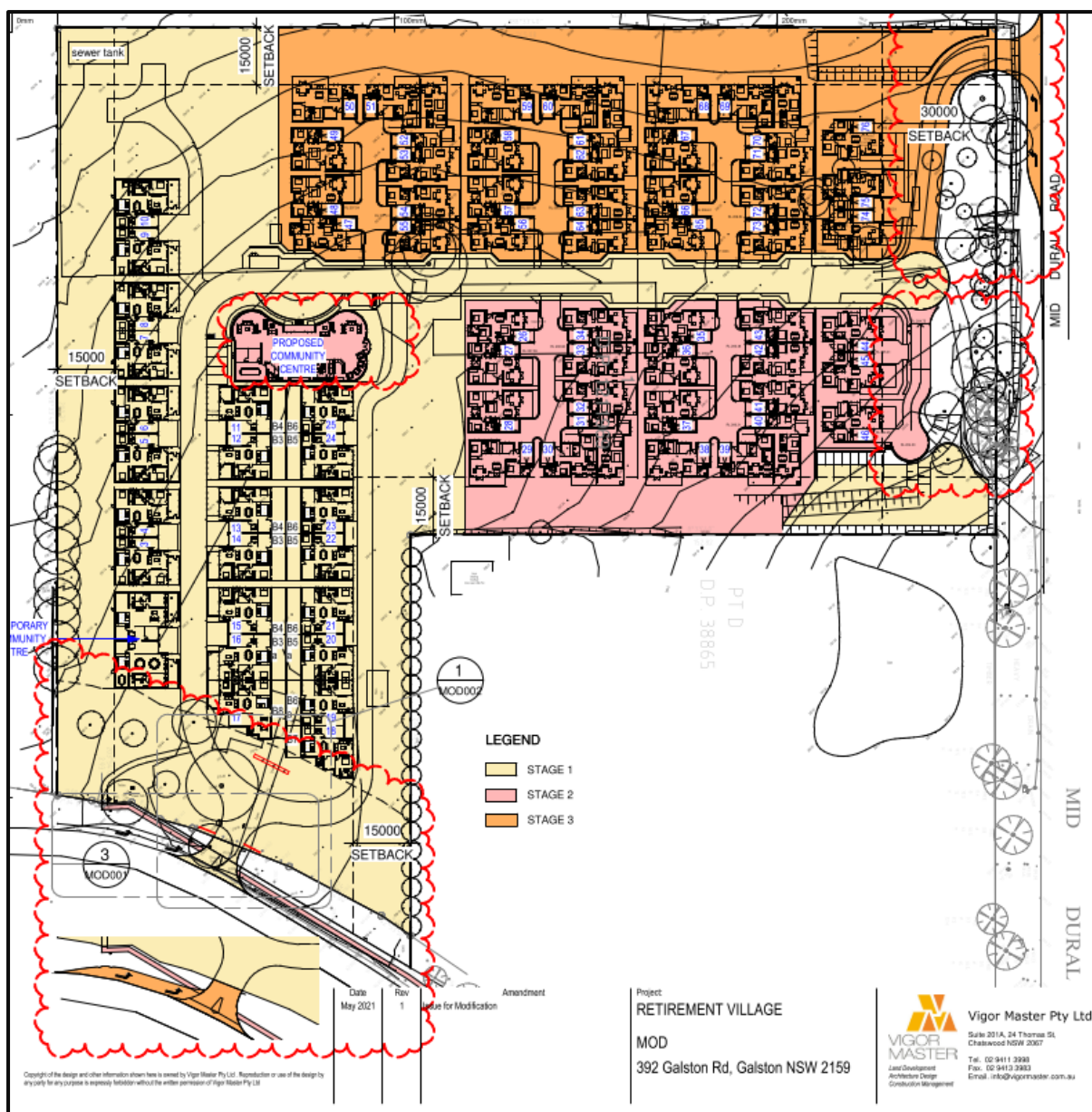


Figure 4: Extract showing proposed staging and modifications bubbled in Red.

2.2 Background

The development application was lodged on **1 July 2021**. A chronology of the development application since lodgement is outlined in **Table 2**.

Table 2: Chronology of the DA

Date	Event
12 July 2021	Exhibition of the application
30 July 2021	DA referred to external agencies
10 August 2021	Request for Additional Information from Council to

	applicant
10 August 2021	Panel kick-off briefing
19 August 2021	<p>Amended plans lodged with the following changes:</p> <ul style="list-style-type: none"> • Bus stop pedestrian access footpath included in stage 1 works (previously stage 1) • Internal roads amended to include 10km/h Shared pedestrian signage. • Turning circles shown for waste vehicle servicing the site. • Amended Acoustic Report supplied. • Village map signage moved further into site.
26 August 2021	Request for additional information from Transport for NSW sent to the applicant. Amended detail on Galston Road access requested.
31 August 2021	<p>Applicant supplies amended plans to address Transport for NSW concerns including:</p> <ul style="list-style-type: none"> • Amended civil plans for the Galston Road intersection. • Amended staging of intersection design including moving proposed deacceleration lane on Galston Road from stage 3 to stage 2
5 November 2021	Request for additional information from Transport for NSW sent to the applicant. Amended detail on Galston Road access requested.
30 November 2021	<p>Meeting held between Council, TfNSW and the applicant to discuss outstanding issues with Galston Road intersection design.</p> <p>Upon conclusion of the meeting TfNSW send through list of required plan amendments and design requirements.</p>
23 December 2021	TfNSW send through a further request for additional information referencing an email sent by the applicant on 1 November 2021. Council did not receive a copy of the email in question however it is noted that TfNSW have outlined further requirements for the applicant. It is noted in a conversation with the applicant that they have been

	working directly with TfNSW.
4 January 2022	Council sends the applicant a further request for additional information based upon the requirements of the 23 December 2021 request for additional information.
20 January 2022	Applicant provides amended detail in response to TfNSW commentary.
22 February 2022	TfNSW provides correspondence to Council indicating that the agency cannot support the proposed modifications.

2.3 Site History

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

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

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

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

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

Stage 1

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

Stage 2

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

Stage 3

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

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

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

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

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

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

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

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

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

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

On 24 April 2019, Council issued a Development Control (Stop Work) order to modify an earlier Development Control (Stop Work) order issued on 2 April 2019. The orders were in relation to building works occurring prior to compliance with Condition No. 21 (Contaminated Land) and the importation

of contaminated fill. The order was subject to an appeal in the Land and Environment Court (*Vigor Master Pty Ltd v Hornsby Shire Council [2020] NSWLEC 1210*). On 12 May 2020, the applicant was ordered by the court to provide Council with a revised Detailed Site Investigation, Waste Removal Plan, Remedial Action Plan and Validation Report. On 3 August 2020, Council approved a Validation Report after remediation works had occurred and the contamination removed.

On 24 October 2019, modification application (DA/484/2011/H) was lodged. Modification 'H' comprised amendments to facilities provided within the approved community centre, an approval to use Villa 1 and 2 and a temporary community centre in Stages 1 and 2, modifications to the building and accessway design for villas in Stage 1. Modification 'H' was approved by the Sydney North Planning Panel on the 17 December 2020.

On 8 April 2021, modification application (DA/484/2011/I) was lodged. Modification I comprised amendments to the staging arrangement. Modification 'I' was approved by the Sydney North Planning Panel on the 13 October 2021.

On 24 November 2021 modification application DA/484/2011/K was lodged. Modification 'K' seeks to amend the design of 21 villas in Stage 2, and to modify the internal accessway serving the 21 villas. As of the date of this report, Modification K has not yet been determined.

3. STATUTORY CONSIDERATIONS

3.1 Section 4.56 of the Environmental Planning and Assessment Act 1979

The proposal constitutes an amendment under Section 4.56 of the EP&A Act', the consent authority may consider an application to amend a development consent provided that:

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

With regard to Section 4.56(1)(a), Council is satisfied that the proposed modification is substantially the same as the development as originally approved. The application as modified would retain the existing 76 dwellings within the approved locations. Further, the modification would not result in reduced building boundary setbacks to adjoining properties, change the land use or substantially alter the fabric of the development. Landscaping would be retained in situ and the addition of the proposed signage is considered to be minor in relation to the large scale of the development.

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

With regard to Section 4.56(1A), the matters referred to in Section 4.15(1) of the Act are discussed within the body of this report. With regard to consideration of the reasons provided by the consent authority for the grant of the original consent (DA/484/2011) the original application was approved by a consent order by the Land and Environment Court on 12 January 2012. No reasons were provided.

3.2 Section 4.15 of the Environmental Planning and Assessment Act 1979

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is considered to be (which are considered further in this report):

- Requiring concurrence/referral (s4.13)

The proposal is not considered to satisfy the criteria of:

- Integrated Development (s4.46)
- Designated Development (s4.10)
- A Crown DA (s4.33)

3.3 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy No. 55 Remediation of Land*
- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*
- *State Environmental Planning Policy No. 64 Advertising and Signage*
- *Hornsby Local Environmental Plan 2013*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

Table 3: Summary of Applicable State Environmental Planning Policies

(Preconditions in **bold**)

EPI	Matters for Consideration	Comply (Y/N)
SRD SEPP	Section 4.56 modification for which the SNPP is the delegated consent authority.	Y
SEPP 55	Clause 7 - Contamination and remediation has been considered and the proposal is satisfactory subject to conditions.	Y
Seniors Housing SEPP	Part 4 - Development Standards to be complied with Part 5 - Development on land adjoining land zoned primarily for urban purposes Clause 50 - Standards that cannot be used to refuse development consent for self-contained dwellings	Y
SEPP 64	Schedule 1 Assessment Criteria	Y

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

State Environmental Planning Policy (State and Regional Development) 2011 ('SRD SEPP') applies to the proposal as it a Section 4.56 modification for which the SNPP is the delegated consent authority. Accordingly, the Sydney South Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

3.3.2 State Environmental Planning Policy No. 55 Remediation of Land

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

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

3.3.3 Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River

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

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

3.3.4 State Environmental Planning Policy No. 64 Advertising and Signage

The proposed signs have been assessed against the requirements of *State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64)*. This Policy provides State-wide planning controls for advertising signs and prevails over other environmental planning instruments including the HLEP and the Hornsby Development Control Plan 2013. The aims of the Policy are to ensure that advertising and signage is compatible with the desired amenity and visual character of an area, to provide effective communication in suitable locations and to ensure signage is of high-quality design and finish. The proposed signs are identified as ‘business identification signs’ as defined under *SEPP 64*.

Council’s assessment of the proposal with respect to the criteria in Schedule 1 of *SEPP 64* is provided below.

State Environmental Planning Policy No. 64 Advertising and Signage		
Control	Requirement	Comment
Schedule 1 – Assessment Criteria (to be considered for all advertising structures including “business identification signs”)		
Character of the area	Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Yes - The signage would be in keeping with the existing and desired future character of the area of Galston area which includes low impact business identification signage.
	Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	Yes - The signage is of an appropriate scale for its locality and would be consistent with other business identification signage in the area.
Special areas	Does the proposal detract from the amenity or visual quality of any	No – The signage would be of a modest an acceptable scale and

	environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	would be set within the proposed landscaping. The signage is appropriate for the peri-urban area.
Views and vistas	Does the proposal obscure or compromise important views?	No important views would be impacted.
	Does the proposal dominate the skyline and reduce the quality of vistas?	The proposal does not dominate the skyline or impact on vistas. The height and scale of the signage is compatible with the streetscape.
	Does the proposal respect the viewing rights of other advertisers?	The signage would not impact on the viewing rights of existing nearby signage.
Streetscape, setting or landscape	Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Yes - The scale, proportion and form is appropriate for the streetscape.
	Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	Yes - The proposed signs contribute to the visual interest of the streetscape.
	Does the proposal reduce clutter by rationalising and simplifying existing advertising?	No. There is no existing signage on site.
	Does the proposal screen unsightliness?	No.
	Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No.
	Does the proposal require ongoing vegetation management?	Yes – the proposed signage is located within landscaped areas. However, the proposed signage would not increase the landscape maintenance burden.

Site and building	Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Yes - The scale of the signage is considered appropriate given the scale of the existing buildings on the site.
	Does the proposal respect important features of the site or building, or both?	Yes.
	Does the proposal show innovation and imagination in its relationship to the site or building, or both.	The signage is considered appropriate for the site and purpose.
Associated devices and logos	Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	There are no devices, platforms, overhangs or protrusions as part of this proposal.
Illumination	Would illumination result in unacceptable glare?	N/A - No illumination is proposed.
	Would illumination affect safety for pedestrians, vehicles or aircraft?	N/A - No illumination is proposed.
	Would illumination detract from the amenity of any residence or other form of accommodation?	N/A - No illumination is proposed.
	Can the intensity of the illumination be adjusted, if necessary?	N/A - No illumination is proposed.
	Is the illumination subject to a curfew?	N/A - No illumination is proposed.
Safety	Would the proposal reduce the safety for any public road?	No – Council requested amendments from the applicant to move the village map sign further from the front of the site, to allow vehicles to leave the intersection prior to stopping to consult the village map. The applicant amended the location of the village map to further within the site to the

		satisfaction of Council.
	Would the proposal reduce the safety for pedestrians or bicyclists?	No
	Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No - The signage would not obscure sightliness from public areas.

The proposal satisfies the assessment criteria under Schedule 1 and is consistent with the objectives of *SEPP 64*.

3.3.5 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.

3.3.5.1 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 RU2 zoned land, the original application relied on a site compatibility certificate (SCC) on the basis that the site adjoined land zoned for urban purposes.

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

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

- *Development consisting of one storey as proposed;*
Comment: No changes are proposed to single storey dwellings.
- *Compliance with Clause 50 development standards including private open space;*
Comment: Compliance with Clause 50 would be maintained.

- *A buffer/setback from all boundaries in accordance with the Development Control Plan;*
Comment: No changes are proposed to boundary setbacks for the proposed dwellings.
- *The size of the community facility to be a minimum of 300m² and include common dining and recreational facilities.*

Comment:

The proposed modifications would not reduce the size of the approved community facility. Common dining, kitchen and recreational facilities will continue to be provided for residents.

3.3.5.2 Clause 26 - Location and Access to facilities and Clause 43 - Transport services to local centres

Clause 26 and 43 of the SEPP provide requirements for the consideration of the consent authority with regards to location and access to facilities, as well as transport services to local centres. The proposed modifications do not alter the proposal's compliance with the requirements of Clause 26 and Clause 43. The proposed modifications include a bringing forward of the approved pedestrian pathway to the bus stop on Galston Road from Stage 2 of the development to Stage 1, which is considered to be a positive modification as it would replace the temporary bus stop approved under DA/484/2011/I.

3.3.5.3 Clause 32 - Design of Residential Development

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

Clause 33 Neighbourhood amenity and streetscape

There are no changes proposed to the dwelling design or their siting. Amenity and streetscape would remain unchanged from the original consent.

Clause 34 Visual and Acoustic Privacy

No changes.

Clause 35 Solar Access and Design for Climate

No changes.

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 proposed modifications would not alter the previously approved waste management services on site. It is noted that the proposed changes to the Galston Road intersection would improve waste vehicle access to the site by providing a wider entrance point that complies with the HRV 12.5 metre vehicle turning radius.

3.3.5.4 Clause 40 - Development Standards

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

3.3.5.5 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 proposed modifications would not increase the height of the community centre, or any other building.

- 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 development would maintain an FSR of 0.236:1 and complies 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 modified proposal would comply with the 30% landscaping requirement as approximately 47% total site would be landscaped.

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

Comment: No changes proposed. The original development as modified would receive adequate sunlight between 9am and 3pm during Winter Solstice.

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

Comment: No changes proposed.

- g) *(Repealed)*

- h) **Parking:** *if at least the following is provided*

- i. *0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider, or*
- ii. *1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with, a social housing provider”.*

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

3.3.6 State Environmental Planning Policy (Infrastructure) 2007

The application is subject to assessment under the provisions of Clause 101 the *State Environmental Planning Policy (Infrastructure) 2007 (SEPP)*. Given the proposal has a frontage to classified roads being Mid Dural Road and Galston Road, Clause 101 of the SEPP is applicable. Clause 101 of the SEPP provides that;

101 Development with frontage to classified road

(1) The objectives of this clause are—

(a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and

(b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The application was referred to Transport for New South Wales for assessment. Transport for New South Wales provided an assessment under Clause 138 of the *Roads Act 1993*.

In assessing the proposed intersection design, TfNSW provided three requests for additional detail to the applicant in response to the proposed updated intersection design, and the existence of the temporary unauthorised crossing that was constructed during 2021. Further to these requests, a meeting was held on 30 November 2021 between TfNSW representatives, Council staff and the applicant to discuss the path forward for the proposed design and retrospective approval for the unauthorised constructed crossing.

The applicant has provided information in response to the TfNSW requirements following each request from the agency, however was unable to satisfy the requirements. On 22 February 2022, Transport for New South Wales provided the following response regarding their inability to support the unauthorised vehicular crossing and the ultimate intersection design;

TfNSW has reviewed the development application and is unable to provide concurrence to the proposed interim and ultimate vehicular crossing design for Galston Road, Mid Dural Road and road reserve works due to the following reasons:

1. The proposed driveway pavement is shown butting up to the Galston Road and Mid Dural Road pavement, which will lead to pavement failures. A concrete driveway crossing and concrete SB gutter

is to be provided between the Galston Road pavement and driveway pavement. A SB gutter will also assist with drainage from the deceleration lane and the driveway access.

Where the concrete SB gutter is provided, the existing (minimum 1m) shoulder is to be maintained, such that there is a 1.0m wide SB gutter. The concrete SB gutter should extend the full length of the deceleration lane and past the exit and the proposed raised concrete triangular island is to be set back from the gutter by 0.5m. The proposed Mid Dural Road left turn bay and access driveway should also be amended accordingly.

2. The proposed pavement type for vehicular crossings and road widening are to be flexible pavement.

3. The swept paths need to demonstrate that the largest vehicles accessing the site via the deceleration lanes at the Galston Road and Mid Dural Road accesses can be accommodated. It is noted that the entering 12.5m vehicle via Galston Road straddles the through lane and egressing vehicles on Mid Dural Road track over the wrong side of the road (Civil Works Plan – Stage 3 (Ultimate)). The plans need to be updated to show centerlines and demonstrate that proposed vehicular accesses and deceleration lanes can accommodate the proposed movements.

4. It is not clear whether there is sufficient width at the triangular island for a pedestrian to wait.

Upon receipt of the above requested plans, TfNSW will undertake assessment and provide comments and requirements accordingly under Section 138 of the Roads Act, 1993

Council notes that the applicant has on 4 separate occasions submitted the proposed intersection design to TfNSW for approval and has on four separate occasions failed to obtain the approval of the consent authority as the proposed intersection plans did not demonstrate that the intersection design met the approval bodies requirements.

Therefore is it considered that the proposed intersection modifications cannot be supported as pursuant to Clause 101(2)(b)(i) of the SEPP, it cannot be adequately demonstrated by the applicant that the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of the design of the vehicular access to the land.

Consequently Council recommends the refusal of the application.

3.3.7 Hornsby Local Environmental Plan 2013

The relevant local environmental plan applying to the site is the *Hornsby Local Environmental Plan 2013* ('the LEP'). Part 1.2 of the LEP outlines the 11 aims of the legislation. The proposed modification is consistent with the aims of the LEP.

Zoning and Permissibility (Part 2)

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

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*

- To encourage land uses that support primary industry, including low-scale and low-intensity tourist and visitor accommodation and the provision of farm produce direct to the public.
- To ensure that development does not unreasonably increase the demand for public infrastructure services or facilities.

The approved development is defined as seniors housing under the *HLEP* and is prohibited in the zone. Notwithstanding, the subject site adjoins land zoned for urban purposes and seniors housing development is permissible in accordance with the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

On 29 July 2020 the Seniors Housing SEPP was amended to prevent new proposals for seniors housing on land within the Metropolitan Rural Area of Greater Sydney.

The amendments do not apply to development applications and applications for site compatibility certificates that have already been lodged will continue to be assessed and determined.

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

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

General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Height of buildings (CI 4.3(2))	10.5 metres	No change to height of community centre. Proposed signage would have a maximum height of 2.3 metres above natural ground level.	Yes
FSR (CI 4.4(2))	N/A	The proposed modification does not increase approved floor area.	N/A
Earthworks (CI 6.2(3))	Matters for consideration listed under Clause 6.2(3)	The proposed modifications would only require minor earthworks associated with the extension of the intersection with Galston Road and foundations for the proposed signage.	Yes

The proposal is considered to be generally consistent with the LEP.

3.4 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are several proposed instruments which have been the subject of public consultation under the EP&A Act, and which may be relevant to the proposal.

It is noted that *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* was repealed and replaced by *State Environmental Planning Policy (Housing) 2021* (the *Housing SEPP*) on 26 November 2021.

The updated housing SEPP is not considered to apply to the proposed development, as the modification application is assessed under Section 4.56 of the Act, and as such is not a development application to which the new *Housing SEPP* applies.

3.5 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- Hornsby Development Control Plan 2013

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

3.5.1 Setbacks

The *HDCP* requires 10m building setbacks to side boundaries. There are no changes proposed to the siting of dwellings and the development would be compliant in this regard.

3.5.2 Landscaping

There are no changes to the approved landscape plan.

3.5.3 Effluent Disposal

The development has been connected Sydney Water's articulated sewerage system. The connection plan has been approved by Sydney Water and would enable occupation of stage 1A of the development.

3.5.4 Signage

Part 1C.2.11 of the *HDCP* prescribes planning controls relating to signage. The proposed signage at the frontage of the site would be consistent with the desired outcomes of Part 1C.2.11 of the *HDCP* and is considered acceptable. Further assessment of the proposed signage is contained within Part X of this report.

3.6 Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

3.7 Section 4.15(1)(a)(iv) - Provisions of Regulations

Clause 92(1) of the Regulation contains matters that must be taken into consideration by a consent authority in determining a development application. None of the matters prescribed in Clause 92(1) are of relevance to the proposed modification.

3.8 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard,

potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- Context and setting - The proposed modification is considered to be suitable in relation to the context of the site and the surrounding peri-urban area.
- Access and traffic - As outlined in the body of this report, access arrangements to the site have been modified and have failed to demonstrate that the safety and efficiency of the road network would be maintained.
- Public Domain - The proposed modification would have negligible impact on the public domain.
- Utilities - The proposed modifications would not require any modification to existing or approved utility connections.
- Heritage – The site is not in the vicinity of any heritage items or heritage conservation areas.
- Flora and fauna impacts - The proposed modifications would not require the removal of any additional flora or fauna habitat or result in a decrease in the eventual canopy cover on site.
- Natural environment - The proposed modifications would have negligible impact on the surrounding natural environment.
- Noise and vibration - The applicant submitted an Acoustic Report prepared by PKS Acoustic Consulting, to support the proposed amendments to the community centre and Condition 27 b) of the consent. The proposed modification to Condition 27 b) is as follows:

Condition 27B. Acoustic Treatment and Certification Permanent Community Centre

Acoustic treatment must be installed for the proposed community centre in accordance with the recommendations contained within the Acoustic Impact Assessment prepared by PKA Acoustic Consulting, dated 1 October 2020 and its Addendum dated 23 February 2021.

~~*and the following requirements: a) All windows to be fixed and inoperable within community centre to control noise emissions from the centre to nearby sensitive receivers. January 2022 – Revision 2 10 b) All glazed elements of the community centre must be minimum Rw 34 and entry doors be minimum Rw 32. The Rw rating is required for the complete glazing and frame assembly. The window glass and frame system are to have a laboratory tested acoustic performance (in accordance with Australian Standard AS1191 Acoustics – Method for laboratory measurement of airborne sound insulation of building elements) meeting the requirements.*~~

The reason for the proposed modification, as described by the applicant in the SEE is as follows:

Reasons: Additional Addendum to the report has been prepared by the acoustic engineer confirming the acoustic requirements can be achieved without the need of changing all windows to fixed windows in the permanent community centre. The alternative solution is to remove the dance floor and to impose management measures such as no live performances within the centre and time restrictions on the use of the centre.

Council's review of the proposed changes raises no objections to the alternate solution proposed and amendments to Conditions 27B and 61B.

- Safety, security and crime prevention - The proposed modifications would have negligible impact on CPTED principles. The proposed signage at the frontage of the site would assist in delineating the public and private realms.
- Social impact - the proposed modifications would have negligible social impact when compared to the approved design. Minor positive impacts would be achieved for residents internal to the complex by providing a functional community facility.
- Economic impact – the proposed development would have minor positive economic impact through employment generation during construction.
- Site design and internal design - The alteration of the community centre would create a facility more suitable for the intended users, and in accordance with the requirements of the NCC.
- Construction - the proposed modifications can be constructed concurrently with the as yet uncompleted stages 2 and 3 and consequently, negligible additional impacts are envisioned.
- Cumulative impacts - the proposed modification would not result in any unacceptable cumulative impacts on site or within the locality.

Accordingly, it is considered that the proposal will result in significant adverse impacts in the locality as outlined above and is consequently recommended for refusal.

1.1 Section 4.15(1)(c) - Suitability of the site

As discussed in the body of this report, the site was approved for use as a Seniors Living development comprising 76 dwellings. The proposed amendments would not necessitate a re-assessment of the site suitability.

1.2 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 5 of this report.

1.3 Section 4.15(1)(e) - Public interest

Section 4.15(1)(e) of the Act requires the consent authority 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 is considered to have unsatisfactorily addressed Council's and relevant agencies' criteria in relation to the Galston Road intersection, and would provide a development outcome that, on balance, would result in a negative impact for the community. Accordingly, it is considered that the refusal of the proposed development would be in the public interest.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 5.

The outstanding issues raised by Agencies are considered in the Key Issues section of this report.

Table 5: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
Environment Agency Head (Environment, Energy & Science Group within DPIE)	S7.12(2) - <i>Biodiversity Conservation Act 2016</i>	N/A	N/A
Rail authority for the rail corridor	CI 86(3) - <i>State Environmental Planning Policy (Infrastructure) 2007</i>	N/A	N/A
Referral/Consultation Agencies			
RFS	S4.14 – EP&A Act Development on bushfire prone land	N/A	N/A
Electricity supply authority	CI 45 – Infrastructure SEPP Development near electrical infrastructure	N/A	N/A
Rail authority	CI 85 – Infrastructure SEPP Development land that is in or adjacent to a rail corridor.	N/A	N/A
Transport for NSW	CI 104 – Infrastructure SEPP Development that is deemed to be traffic generating development in Schedule 3.		
Transport for NSW	CI 18 - SEPP 64 Advertisement within 250m of classified road any part of which is visible from the classified road and subject to CI 17.	N/A	N/A
Design Review Panel	CI 28(2)(a) – SEPP 65 Advice of the Design Review Panel (‘DRP’)	N/A.	N/A
Integrated Development (S 4.46 of the EP&A Act)			
RFS	S100B - <i>Rural Fires Act 1997</i> bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes	N/A	N/A
Natural Resources Access Regulator	S89-91 – <i>Water Management Act 2000</i> water use approval, water management work approval or activity approval under Part 3 of Chapter 3	N/A	N/A
Transport for New South Wales	Section 138 of the Roads Act 1993	Transport for New South Wales, as the relevant approval body under Section	No

		138 of the Roads Act 1993 does not consent to the amended Road design.	
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4.2 Council Referrals (internal)

The development application has been referred to various Council officers for technical review as outlined the below table as requested by the Sydney North Planning Panel at the briefing meeting for the related development application DA/484/2011/K. The Panel requested that Council's Engineering and Traffic Officers review the supplied plans and Transport for New South Wales responses to see if the technical officers could support the application. Please note that the assessment provided below are in response to the Request for additional detail from Transport for New South Wales dated 23 December 2021 and provided at Annexure C and the amended plans provided by the applicant in response to these plans (provided at Annexure D).

Table 6: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	<p><u>Transport for NSW Concurrence</u></p> <p>The proposed Section 4.55 application seeks to modify the approved vehicular and pedestrian access arrangements previously approved by Transport for NSW (TfNSW) as the Roads Authority. As such the following conditions of Concurrence No. 66 to 78 of the current Development Consent will require amendments should the Section 4.55 application be approved. As the Roads Authority, TfNSW concurrence is required for approval to be granted. In this regard the application cannot be supported and is recommend for a REFUSAL.</p> <p>Notwithstanding the above, without prejudice engineering assessment of the outstanding issues has been undertaken at the request of the Planning Panel and the following comments are provided:</p> <p><u>STAGE 1</u></p> <p>Item 1.1 – The temporary vehicular crossing shall be limited for use for 12 months only and expires on 5 Nov 2022. A condition of consent shall be included that requires the reconstruction of the vehicular crossing prior to the issue of an occupation certificate for Stage 1 or 5 Nov 2022, whichever occurs first.</p> <p>Item 1.2 – The upgrading of the road shoulder in Galston Road to compacted road base or asphalt adjacent the bus bay area is required. A condition of consent shall be</p>	No

	<p>included that requires the upgrade works to be completed prior to the issue of an occupation certificate for Stage 1.</p> <p>Item 1.3, 1.4 and 1.5 – Refer to Traffic comments.</p> <p>Item 1.6 – The dish gutter design shall be provided and constructed prior to the issue of an occupation certificate for Stage 1. A condition of consent shall be included.</p> <p>Item 1.7 – The keeping of the temporary vehicular crossing is not supported as the design levels pavement widths require amendments at the various stages of the development. A condition of consent shall be included requiring the vehicular crossing to be reconstructed.</p> <p><u>STAGE 2</u></p> <p>Item 2.1 and 2.2 – Refer to Traffic comments.</p> <p>Item 2.3 – Kerb and gutter details provided and shall be approved for construction by TfNSW.</p>	
Traffic and Road Safety	<p>Council's <i>Traffic and Road Safety Branch</i> (the Branch) has undertaken an assessment of the above development application (DA) being a Section 4.55 application for the DA/484/2011. This Memo is to review the TfNSW request for additional information, as well as the applicants amended plans to identify whether the amended plans and documentation adequately address the requirements of TfNSW.</p> <p>The assessment of the DA was based on:</p> <ul style="list-style-type: none"> • Additional letter from A & G Consulting Engineer dated 17th January 2022 • Amended Engineering Plans prepared by Mepstead and Associates dated 18th January 2022. • TfNSW response letter dated 23 December 2021. • Additional Information response letter prepared by VIGOR MASTER <p>TfNSW Requirements and Responses from Proponent</p> <p>TfNSW provided comments in letter dated 23 December 2021. The proponent responded the letter in 20 January 2022. List of the comments and responses is provided below.</p> <p>Approvals for any works on state roads are subject to</p>	No

	<p>TfNSW Works Authorisation Deed (WAD). Works must not be carried until the WAD process is finalised and accepted by TfNSW.</p> <p>Traffic Branch provides comments regarding each point related to traffic and road safety, noting that these comments are advisory only and that any final approval issued for the operation of the site shall take into consideration comments from TfNSW:</p> <p><i>TfNSW has reviewed the development application and is unable to provide retrospective approval for the interim vehicular crossing on Galston Road under Section 138 of the Roads Act 1993, due to the following reasons:</i></p> <p><i>1. TfNSW is seeking confirmation of the operational duration of the interim access. It is noted that as per the letter for DA484/2011/1 dated 5 November 2021, the constructed access can only be operational for 12 months from the date of the letter, subject to the requested TfNSW requirements being satisfied.</i></p> <p>Proponent response: The applicant confirms that it is intended to use the temporary vehicle crossing to a maximum 12 months. The conversion works of the existing temporary vehicle access to the approved Stages 1 & 2 vehicle access will be completed by 4 November 2022.</p> <p>Branch response: The Branch accepts the response from the proponent. The period of using temporary vehicle access from Galston Road should be stated in DA Determination Letter as a condition.</p> <p>It is noted that the proposed driveway alignment and layout is not standard and does not appear to align with Council's vehicular crossing design. It is recommended that an independent Road Safety Audit of the vehicular crossing be carried out and its findings and recommendations addressed before approval of the access is granted.</p> <p><i>2. Details regarding management of loose and uncompacted gravel used at the driveway corners and verge area must be submitted for TfNSW review. TfNSW raises road safety concerns regarding safety risks of loose gravel on the travel lane of Galston Road. As per the letter for DA484/2011/1 dated 5 November 2021, TfNSW requested the existing gravel in the Galston Road shoulder is to be replaced by compacted road base or temporary asphalt.</i></p>	
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	<p>Proponent response: The applicant confirms that the existing loose gravel used at the driveway corners and verge area will be removed and replaced by compacted road base.</p> <p>Branch response: The Branch accepts the response from the proponent. The statement of removing existing loose gravel used at the driveway corners and verge area and replaced by compacted road base should be included in DA conditions.</p> <p><i>3. 'No Right Turn' signage is to be proposed on the raised concrete island in the Galston Road vehicular crossing.</i></p> <p>Proponent response: Please refer to amended Engineering Plans.</p> <p>Branch response: 'No Right Turn' sign is shown in the amended engineering plans. It is also noted that a "No Right Turn" sign is required for the movement from Galston Road into the site. The plan does not indicated this sign specifically.</p> <p><i>4. Submitted swept path plans for 12.5m vehicles entering and exiting the site via the Galston Road temporary access show vehicle movements do not smoothly transition and are abrupt. Turning movements should be smooth.</i></p> <p>Proponent response: Please refer to amended Engineering Plans.</p> <p>Branch response: The Branch has checked the amended swept path for 12.5m vehicles entering and exiting the site via the Galston Road temporary access and accepts the swept path.</p> <p><i>5. Exiting vehicles must give way to entering traffic from Galston Road to prevent queuing on Galston Road. Line marking plans should be submitted indicating holding lines on the temporary vehicular access to give way to entering vehicles.</i></p> <p>Proponent response: Please refer to amended Engineering Plans.</p> <p>Branch response: The access from Galston Road has been amended in the Civil Plan that two 12.5 vehicles can pass each other at the same time. Thus, the 'Give Way' line marking requested by TfNSW is not required and there are no queuing issues for the site at the entering point with the</p>	
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	<p>proposed plan.</p> <p><i>6. Aerial photography of the constructed interim access shows the dished gutter crossing and 1m shoulder that has been maintained. Submitted civil design plans for the constructed interim access should reflect the constructed works and indicate the maintained 1m shoulder and accurately locate the SB gutter.</i></p> <p>Proponent response: Please refer to amended Engineering Plans.</p> <p>Branch response: Not related to Traffic and Road Safety.</p> <p><i>7. A pavement design report detailing construction materials used should be submitted for review. This will clarify if used concrete must be removed and replaced with a full depth asphalt for the construction of the ultimate access.</i></p> <p>Proponent response: Please refer to additional letter prepared by A & G Consulting Engineer who supervised the construction of the temporary vehicle crossing.</p> <p>Branch response: Not related to Traffic and Road Safety.</p> <p><i>TfNSW has reviewed the submitted civil design plans and is unable to provide concurrence to the proposed ultimate vehicular crossing for Galston Road, Mid Dural Road and road reserve works due to the following reasons:</i></p> <p><i>1. The submitted swept path plans indicate 12.5m vehicles cannot simultaneously enter and exit the site due to inadequate clearances at the internal driveway. Swept path movements should not overlap and adequate clearances should be provided.</i></p> <p>Proponent response: Please refer to amended Engineering Plans.</p> <p>Branch response: Amended swept path still indicates that 12.5m vehicles cannot simultaneously enter and exit the site at Mid Dural Road vehicle access point. However, due to the deceleration lane provided by the proposed site on Mid Dural Road, the queue length is long enough without affecting traffic on Mid Dural Road.</p> <p><i>2. Submitted swept path plans indicate abrupt turning movements for 12.5m vehicles exiting the site. Turning movements should be smooth with no kinks in curvature.</i></p>	
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	<p>Proponent response: Please refer to amended Engineering Plans.</p> <p>Branch response: Please see comments for the above point.</p> <p><i>3. Kerb and gutter details provided in Sheet 9 of the submitted civil design plans should reference the RMS standard kerb design.</i></p> <p>Proponent response: Please refer to amended Engineering Plans.</p> <p>Branch response: Not related to Traffic and Road Safety.</p> <p><i>4. TfNSW is seeking confirmation that the submitted Statement of Environmental Impacts adequately considers environmental impacts from constructed interim access and any further TfNSW remediation work requirements in this letter.</i></p> <p>Proponent response: Please refer to the updated Statement of Environmental Effects (Revision 2).</p> <p>Branch response: Not related to Traffic and Road Safety.</p> <p><i>TfNSW also has the following advisory comments for Council's consideration in the determination of the application:</i></p> <p><i>1. The temporary bus stop and associated line marking and signage is to be designed and constructed to Council and the bus provider's satisfaction, as per the email to Council for SA/484/2011/I dated 14 September 2021.</i></p> <p>Proponent response: No response to this comment.</p> <p>Branch response: The review of the bus stop locations at the vicinity of the site dose not indicate any bus stop required to be relocated or added temporarily at the construction stage.</p> <p>2. TfNSW (Roads) has previously resumed and dedicated a strip of lane as road along the Mid Dural Road frontage and vested a strip of land as road along the Galston Road frontage of the subject property, as shown by grey colour on the attached Aerial – "X".</p> <p>All buildings and structures (including signage), together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the Mid Dural and Galston Road boundary.</p> <p>Proponent response: No response to this comment.</p>	
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	<p>Branch response: Not related to Traffic and Road Safety.</p> <p>Recommendation</p> <p>The Branch has assessed the development application (DA) being a Section 4.55 application for the DA/484/2011 and reviewed the proponent's response for the TfNSW's Comments. It is confirmed that that Traffic and Road safety concerns from TfNSW has been addressed by the proponent's response.</p> <p>It is recommended that the following issues should be considered:</p> <ol style="list-style-type: none"> 1. Approvals for any works on state roads are subject to TfNSW Works Authorisation Deed (WAD). Works must not be carried until the WAD process is finalised and accepted by TfNSW. 2. It is noted that the proposed driveway alignment and layout is not standard and does not appear to align with Council's vehicular crossing design. It is recommended that an independent Road Safety Audit of the vehicular crossing be carried out and its findings and recommendations addressed before approval of the access is granted. 3. The period of using temporary vehicle access from Galston Road should be stated in DA Determination Letter. 4. The statement of removing existing loose gravel used at the driveway corners and verge area and replaced by compacted road base should be included in DA conditions. 	
Environmental Protection	As outlined in the body of this report, the application was referred to Council's Environmental Protection team for comment regarding the proposed amendments to the acoustic treatment for the community centre. No objections were raised and recommended conditions of development consent could be issued in the event the application was supported.	Yes

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.



4.3 Community Consultation

The proposal was notified in accordance with the Hornsby Shire Council Community Engagement Plan from 2 July 2021 until 26 February 2022. The notification included the following:

- A sign placed on the site
- Notification on the Council's website
- Notification letters sent to adjoining and adjacent properties (as outline don the notification map below)



NOTIFICATION PLAN

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

The Council received a total of one unique submission by way of objection. The issues raised in the submission are considered in the table below.

Table 7: Community Submissions

Issue	No. of submissions	Council Comments
Front Fencing Submissions raised concerns regarding the previously constructed	1	The submission raised concerns regarding the previously erected palisade style fencing at the front of the site. Council queried the nature of the erected fencing with the applicant, as it is not located on any

front fencing having a “prison like” appearance that is out of character for the rural area.		<p>of the approved landscaping plans. The applicant indicated that the fencing was for temporary construction use only and not intended to be a permanent structure.</p> <p>Outcome: The issue has been noted on Council’s system for follow up to ensure that all construction fencing is removed from the site upon the completion of works.</p>
<p>Signage</p> <p>The submission contested that the proposed signage was out of character for the rural area and akin to masonry elements more suited to a business park.</p>	1	<p>The submission contested that the proposed masonry signage was out of character for the area. An assessment of the proposed signage is provided in the body of this report.</p> <p>Council notes that Part 2.1.3 Landscaping of the HDCP permits the erection of masonry “gate entry features” so long as they do not extend further than 3 metres from the side of the driveway. Whilst no gate is proposed, the signage flanking the driveway would be acting as a masonry entry feature to the site. The signage is proposed to have a width of 4.6 metres, which is considered appropriate for the comparative scale and frontage of the site. It is also noted that both signs are setback from the site frontage, with the village map sign being further moved back into the site.</p> <p>Outcome: Council raises no objection to the proposed signage on site.</p>

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

5.1 Vehicular Access

The applicant seeks to amend the design of the Galston Road driveway access, which is described as follows;

The adjustments proposed to the internal roads are the turning radius of each road at the intersection near the Galston Road village entrance and the alignment of the section of the road to the north of the permanent community centre.

The reasons for these changes are to enable easy vehicle manoeuvres at the entrance intersection and to locate the roads further away from the villas where possible.

The proposed changes to the public road works have been made in response to the comments received from the TfNSW.

For Galston Road frontage, a left in/left out vehicle access will be construction for stages 1 and 2, and similar arrangement will additional deceleration lane will be constructed for stage 3.

For Mid Dural Road, a left in/left out vehicle access and deceleration lane will be constructed as part of stage 3.

A temporary vehicular crossing from Galston Road was built in September 2021 as reinforced concrete slab on natural ground with a thickness at 170-220, SL92 mesh top and bottom, and 32 Mpa concrete. It is intended to use the temporary vehicular crossing for a maximum 12 months. The construction of the Stages 1 & 2 vehicle access involves the widening of the temporary crossing. Any existing structures that are inconsistent with the approved vehicle access for Stages 1 & 2 and Stage 3 will be demolished and rectified.

The boardwalk connecting the roundabout to the previous approve bus stop on Mid Dural Road has been removed. The staging arrangement has been amended accordingly with further changes to the internal roads located on the eastern and western side of the roundabout.

The internal road to the west of the roundabout will become part of the stage 3 while the internal road to the east of the roundabout will become part of the stage 2.

Council notes that the conditions of development concurrence provided by Transport for New South Wales (previously named the Roads & Traffic Authority) under the original development consent are as follows;

66. A Road Occupancy Licence should be obtained from the RTA for any works that may impact on traffic flow on Galston Road and Mid-Dural Road during construction activities.
67. Any redundant driveways shall be removed and replaced with a footway.
68. Road traffic noise should be mitigated in accordance with the EPA Environmental Criteria for Road Traffic Noise.
69. The driveways are to be constructed to only allow left in / left out vehicular access to the site.
70. To reinforce the left in / left out vehicular access, a central median must be constructed for a minimum of 15 metres on both sides of the driveway. The central median is to be a minimum of 600mm wide and constructed prior to occupation.
71. The design and construction of the median to be to RTA, Austroads and Australian Standards specifications.
72. The design to be submitted to the RTA for approval prior to the issue of the Construction Certificate.
73. The applicant to provide kerb and gutter to the full frontage of the property on Mid-Dural Road and Galston Road.
74. A footpath is to be provided to the full frontage of the property on Mid-Dural Road and Galston Road.
75. A pedestrian refuge is to be provided on Mid-Dural Road and Galston Road. Design to Austroads and RTA specification. Plans must be submitted to the RTA prior to the Construction Certificate.

76. Bus stops to be provided on both sides of Mid-Dural Road and Galston Road. These stops are to be designed in accordance with Austroads.
77. All signposting on Mid-Dural Road and Galston Road is to be approved by the RTA prior to installation, including but not limited to 'No Stopping' restrictions at the pedestrian refuge and 'Bus Zone' signage.
78. A minimum of two bus shelters must be provided.

In addition to the above, the following condition was added under modification DA/484/2011/I.

79. The design and construction of the interim Stage 1 and 2 left-in/left-out vehicular access 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 Stage 1 and 2 interim 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.*

The applicant is seeking under this modification, changes to the conditions provided above to suit the newly proposed intersection design for Galston Road.

The proposed modified intersection design requires approval under Section 138 Of the *Roads Act 1993*, which states that;

A person must not—

- (a) erect a structure or carry out a work in, on or over a public road, or*
- (b) dig up or disturb the surface of a public road, or*
- (c) remove or interfere with a structure, work or tree on a public road, or*
- (d) pump water into a public road from any land adjoining the road, or*
- (e) connect a road (whether public or private) to a classified road,*

otherwise than with the consent of the appropriate roads authority.

Maximum penalty—10 penalty units.

- (2) A consent may not be given with respect to a classified road except with the concurrence of TfNSW.*

Council referred the proposed modified Galston Road Access to TfNSW for concurrence under Section 138 of the *Roads Act 1993*.

Additionally, at some time between 5 June 2021 and 7 August 2021, the applicant constructed an unauthorised vehicular access to Galston Road, at the proposed location of the intersection, as pictured below;



Figure 5: Saturday June 2 2021 – Unformed intersection with Galston Road.



Figure 6: Saturday 7 August 2021 – Constructed unauthorised access point.

As described in this report, TfNSW provided three requests for additional detail to the applicant in response to the proposed updated intersection design, and the existence of the temporary unauthorised crossing that was constructed during 2021. Further to these requests, a meeting was held on 30 November 2021 between TfNSW representatives, Council staff and the applicant to discuss the path forward for the proposed design and retrospective approval for the unauthorised constructed crossing.

The applicant has provided information in response to the TfNSW requirements following each request from the agency, however was unable to satisfy the requirements. On 22 February 2022, Transport for New South Wales provided the following response regarding their inability to support the unauthorised vehicular crossing and the ultimate intersection design;

TfNSW has reviewed the development application and is unable to provide concurrence to the proposed interim and ultimate vehicular crossing design for Galston Road, Mid Dural Road and road reserve works due to the following reasons:

1. The proposed driveway pavement is shown butting up to the Galston Road and Mid Dural Road pavement, which will lead to pavement failures. A concrete driveway crossing and concrete SB gutter

is to be provided between the Galston Road pavement and driveway pavement. A SB gutter will also assist with drainage from the deceleration lane and the driveway access.

Where the concrete SB gutter is provided, the existing (minimum 1m) shoulder is to be maintained, such that there is a 1.0m wide SB gutter. The concrete SB gutter should extend the full length of the deceleration lane and past the exit and the proposed raised concrete triangular island is to be set back from the gutter by 0.5m. The proposed Mid Dural Road left turn bay and access driveway should also be amended accordingly.

2. The proposed pavement type for vehicular crossings and road widening are to be flexible pavement.

3. The swept paths need to demonstrate that the largest vehicles accessing the site via the deceleration lanes at the Galston Road and Mid Dural Road accesses can be accommodated. It is noted that the entering 12.5m vehicle via Galston Road straddles the through lane and egressing vehicles on Mid Dural Road track over the wrong side of the road (Civil Works Plan – Stage 3 (Ultimate)). The plans need to be updated to show centerlines and demonstrate that proposed vehicular accesses and deceleration lanes can accommodate the proposed movements.

4. It is not clear whether there is sufficient width at the triangular island for a pedestrian to wait.

Upon receipt of the above requested plans, TfNSW will undertake assessment and provide comments and requirements accordingly under Section 138 of the Roads Act, 1993

Council notes that the applicant has on 4 separate occasions submitted the proposed intersection design to TfNSW for approval and has on four separate occasions failed to obtain the approval of the consent authority.

Consequently, pursuant to the Section 138(2) of the Roads Act 1993, Council cannot recommend consent to the development as the approval of TfNSW is required.

Additionally, as detailed in the body of this report, it is considered that the proposed intersection modifications cannot be supported as pursuant to Clause 101(2)(b)(i) of *State Environmental Planning Policy (Infrastructure) 2007*, as it can not be adequately demonstrated by the applicant that the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of the design of the vehicular access to the land.

Further, Council cannot recommend consent to the development as Section 4.47(2) and Section 4.47(4) of the *Environmental Planning and Assessment Act 1979* provides that

4.47(2) *“Before granting development consent to an application for consent to carry out the development, the consent authority must, in accordance with the regulations, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development”.*

And;

4.47(4) *If the approval body informs the consent authority that it will not grant an approval that is required in order for the development to be lawfully carried out, the consent authority must refuse consent to the application.*

Consequently, due to the ongoing failure of the applicant to obtain consent for the proposed intersection with Galston Road, Council recommends that the application be refused. Council notes that this would not prevent the applicant from building an intersection with Galston Road, it would

merely cause the development to revert to the previously approved development under DA/484/2011 and the previously applied Conditions 66 to 79.

5.2 Acoustics

As outlined in the body of this report, the applicant seeks alternative acoustic treatment for the Community Centre and the subsequent updating of Conditions 27B and 61B.

Council's assessment identifies that the amended acoustic requirements are acceptable, subject to the amendment of Conditions 27B and 61B. Subject to the amendment of these conditions, it is considered that the proposed community centre would have an acceptable artistic impact on villas in the vicinity.

Resolution: If the application is to be approved, Council recommends that Conditions 27B and 61B be amended as follows;

27B. Acoustic Treatment and Certification Permanent Community Centre

Acoustic treatment must be installed for the proposed community centre in accordance with the recommendations contained within the Acoustic Impact Assessment prepared by PKA Acoustic Consulting, dated 1 October 2020, **the Addendum to the Acoustic Report, prepared by PKA Acoustic Consulting, dated 23 February 2021, Addendum 2 to the Acoustic Report, prepared by PKA Acoustics dated 18 August 2021.** and the following requirements:

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

61B. Acoustic Certification

On completion of all works and prior to the issue of an Occupation Certificate, the certifier is to be provided with a certificate from a qualified acoustic consultant certifying that all acoustic works have been completed in accordance with the recommendations contained within the Acoustic Impact Assessment - temporary community centre prepared by PKA Acoustic Consulting, dated 12 October 2020, the Acoustic Impact Assessment prepared by PKA Acoustic Consulting, dated 1 October 2020, **the Addendum to the Acoustic Report, prepared by PKA Acoustic Consulting, dated 23 February 2021 and the Addendum 2 to the Acoustic Report, prepared by PKA Acoustics dated 18 August 2021** and this consent.

However, Council does not recommend the approval of this modification and as such, the above conditions are not required, should the recommendation be supported by the panel.

6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application cannot be supported.

The application fails to achieve the concurrence of Transport for New South Wales with respect to the amended intersection design with Galston Road. As per Section 138 of the *Roads Act 1993*, and Section 4.47(4) of the *Environmental Planning and Assessment Act 1979*, the consent authority cannot provide consent to the proposed changes.

Further, the proposed amended intersection design fails to satisfy Clause 101(2)(b)(i) of *State Environmental Planning Policy (Infrastructure) 2007* which requires development to demonstrate that the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of the design of the vehicular access to the land.

7. RECOMMENDATION

That the Development Application DA No. DA/484/2011/J for Section 4.56 Modifications to internal road design, community centre design, signage and conditions of development consent at 392 Galston Road (Lot 1 DP 1211969) be REFUSED pursuant to Section 4.16(1) (b) of the *Environmental Planning and Assessment Act 1979* subject to the draft reasons for refusal attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Recommended reasons for refusal
- Attachment B: Transport for New South Wales Response dated 22 February 2022 and 23 December 2021
- Attachment C: Architectural Plans by Vigor Master – (As amended)
- Attachment D: Statement of Environmental Effects

Attachment A – Recommended Reasons for Refusal

REASONS OF REFUSAL

1. The proposed development is unsatisfactory in respect to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposed modification fails to satisfy Clause 101(2)(b)(i) of *State Environmental Planning Policy (Infrastructure) 2007* which requires development to demonstrate that the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of the design of the vehicular access to the land.
2. The application cannot be recommended for approval as per the provisions of Clause 4.47(2) and 4.47(4) of the *Environmental Planning and Assessment Act 1979* as Transport for New South Wales have not provided concurrence to the proposed modified Galston Road Intersection under Clause 138 of the *Roads Act 1993*.

- END OF REASONS FOR REFUSAL -

Attachment B – Transport for New South Wales Response dated 22 February 2022 and 23 December 2021

Attachment D: Architectural Plans by Vigor Master – (As amended)

Attachment E: Statement of Environmental Effects – Vigor Master