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| DATE OF DETERMINATION | 09 March 2023 |
| DATE OF PANEL DECISION | 09 March 2023 |
| DATE OF PANEL MEETING | 08 March 2023 |
| PANEL MEMBERS | Peter Debnam (Chair), Brian Kirk, Nicole Gurran, Sue Weatherly, Mark McCrindle |
| APOLOGIES | Nil |
| DECLARATIONS OF INTEREST | Nil |

Papers circulated electronically on 23 February 2023.

MATTER DETERMINED

PPSSNH-320 - DA/394/2015/E – Hornsby, Lot 100 DP 1259619, No. 35 Pacific Highway, Wahroonga, Section 4.55(2) application - modification to Independent Living Units - Buildings A and B - Stage 3 of the seniors living development (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters listed at item 8 in Schedule 1.

Development application

The Panel determined to approve the modification application pursuant to section 4.56 of the *Environmental Planning and Assessment Act 1979*.

The Panel's decision was unanimous.

REASONS FOR DECISION

The Panel approved the modification application for the reasons below and in Council's Assessment Report.

The original DA was approved by the Sydney West Planning Panel in 2015 for demolition of existing structures and erection of a residential care facility for 122 residents, five independent living unit buildings varying in height from 3 to 5 storeys containing 168 dwellings and 259 car parking spaces, community facilities, café and associated works. The development was approved in three stages. Stages 1 and 2 for the construction of the residential care facility and Buildings C, D and E have been completed.

This modification application proposes design changes to the two independent living unit buildings identified as Buildings A and B and an increase in height of the buildings from 5 to 6 storeys.. Other design changes to the buildings include a shift in orientation to improve the design and functionality of the development and increase setbacks to retained trees. The proposal decreases unit numbers from 168 to 167 with an increase in 2-3 bedroom units due to market demand.

The original application was lodged and determined having regard to the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 which was repealed by State Environmental Planning Policy (Housing) 2021. The proposal complies with the design quality principles of State Environmental Planning Policy 65 Design Quality of Residential Apartment Development. The proposal is generally consistent with the prescriptive measures within the Apartment Design Guide. The proposal would not alter the original development's compliance with any other environmental planning instruments.

The Panel concurs with Council that the development as modified is substantially the same development for which consent was originally granted and the design changes proposed would not significantly intensify the development.

The Panel had regard to the reasons given by the consent authority for the grant of the consent that is sought to be modified.

The Panel believes the modification has been properly assessed against relevant planning controls and approval of the modification would be in the community interest.

CONDITIONS

The modification application was approved subject to the conditions in Council Assessment Report with amendments to Condition 14, 15, 19A, 20A to read as follows –

Condition 14. Construction Traffic Management Plan (modified)

To enable unencumbered movement of traffic in the public road and internal road network during construction works, a Construction Management Plan, including a Traffic Management Plan and scaled construction plans prepared by a suitably Chartered and Qualified Chartered Civil Engineer and Qualified Worksite Traffic Controller shall be prepared and submitted to Hornsby Shire Council for approval according to the following requirements:

- a) A copy of the plans shall be submitted for consideration and written approval by Hornsby Shire Council prior to the release of the Construction Certificate.
- b) The plans shall detail the order of construction works and arrangement of all construction machines and vehicles being used at the same time during all stages.
- c) The CTMP plans shall be in accordance with the approved Development Application plans and the Development Consent conditions.
- d) To prevent injury, accident and loss of property, no building materials, work sheds, vehicles, machines or the like shall be allowed to remain in the road reserve area without the written consent of Hornsby Shire Council.
- e) The Plan shall be generally in compliance with the requirements of the Road and Traffic Authority's "Traffic Control at Worksites Manual 1998" and detailing:-
 - i) Public notification of proposed works;
 - ii) Long term signage requirements;
 - iii) Short term (during actual works) signage;
 - iv) Vehicle Movement Plans, where applicable;
 - v) Traffic Management Plans;
 - vi) Pedestrian and Cyclist access and safety;
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- f) The plans shall indicate traffic controls including those used during non-working hours and shall provide pedestrian access and two-way traffic in the public road and internal road network to be facilitated at all times.
- g) The plans shall include the proposed truck routes to and from the site including details of the frequency of truck movements at the different stages of the development. The plan shall also include details of parking arrangements for all employees and contractors.
- h) The Applicant and all employees of contractors on the site must obey any direction or notice from the Prescribed Certifying Authority or Hornsby Shire Council in order to ensure the above.
- i) If there is a requirement to obtain a Work Zone, partial Road Closure or Crane Permit an application to Hornsby Shire Council is to be made prior to the issue the Construction Certificate
 - a) Arrangements for public notification of the works;

- b) Temporary construction signage;
- c) Permanent post-construction signage;
- d) Vehicle movement plans;
- e) Traffic management plans; and
- f) Pedestrian and cyclist access/safety.

Condition 15. Traffic Control Plan (modified)

A Traffic Control Plan (TCP) must be prepared by a qualified traffic controller in accordance with the Roads & Traffic Authority's Traffic Control at Worksites Manual 1998 and Australian Standard AS1742.3 for all work on a public road and the internal road network. The Traffic Management Plan shall be submitted and approved by Council's Manager Traffic and Road Safety prior to the issue of a construction certificate. The TCP must detail the following:

- a) Arrangements for public notification of the works;
- b) Temporary construction signage;
- c) Permanent post-construction signage;
- d) Vehicle movement plans;
- e) Traffic management plans; and
- f) Pedestrian and cyclist access/safety.

Condition 19A. On Site Stormwater Detention - Stage 3 (added)

In relation to stage 3 only, an on-site stormwater detention system must be designed by a chartered civil engineer and constructed in accordance with Project No. 22-000013 Drawing No.C2-01 and Drawing No.C4-30 Revision A , prepared by Calibre Group, dated 14.03.2022 and the following requirements:

- a) Have a capacity of not less than 59.0 cubic metres, and a maximum discharge (when full) of 150 litres per second.
- b) Have a surcharge/inspection grate located directly above the outlet.
- c) Discharge from the detention system must be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved Council system.
- d) Where above ground and the average depth is greater than 0.3 metres, a 'pool type' safety fence and warning signs must be installed; and
- e) Not be constructed in a location that would impact upon the visual or recreational amenity of residents.






Condition 20A. Water Quality/Bio Retention System – Stage 3 (added)

In relation to stage 3 only:

- a) Stormwater discharging from the development site is to be treated generally in accordance with the MUSIC Model in Appendix B of the Stormwater Management Report Issue A, prepared by Calibre Group, dated 14.03.2022 to achieve the quality specified in the Hornsby Development Control Plan 2013 (table 1C.1.2(b) Urban Stormwater Quality Targets) and a quality treatment system is to be constructed.
- b) Prior to occupation of the premises, a Chartered Civil/Hydraulic Engineer of the Institution of Engineers, Australia is to certify that works have been completed in accordance with the approved construction plan and the measures will achieve the targets specified in the condition.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered 1 written submission made during the public exhibition of the proposal. Issues raised included amenity impacts to do with privacy, noise and solar access. The Panel considers concerns raised in submissions have been adequately addressed in the Assessment Report.

| PANEL MEMBERS | |
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|  Peter Debnam (Chair) |  Nicole Gurran |
|  Brian Kirk |  Sue Weatherly |
|  Mark McCrindle | |

| SCHEDULE 1 | | |
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| 1 | PANEL REF – LGA – DA NO. | PPSSNH-320 - DA/394/2015/E – Hornsby |
| 2 | PROPOSED DEVELOPMENT | Section 4.55(2) application - modification to Independent Living Units - Buildings A and B - Stage 3 of the seniors living development |
| 3 | STREET ADDRESS | Lot 100 DP 1259619, No. 35 Pacific Highway, Wahroonga |
| 4 | APPLICANT/OWNER | Catholic Healthcare Limited |
| 5 | TYPE OF REGIONAL DEVELOPMENT | Section 4.55(2) Modification Application |
| 6 | RELEVANT MANDATORY CONSIDERATIONS | <ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (Housing) 2021 State Environmental Planning Policy No 65 Design Quality of Residential Apartment Development State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Hornsby Local Environmental Plan 2013 Draft environmental planning instruments: Nil Development control plans: Hornsby Development Control Plan 2013 Planning agreements: Nil |

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| | | <ul style="list-style-type: none"> • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: • Coastal zone management plan: Nil • Other relevant plans: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development |
| 7 | MATERIAL CONSIDERED BY THE PANEL | <ul style="list-style-type: none"> • Council assessment report with draft conditions of consent. • Written submissions during public exhibition: 1 |
| 8 | MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> • 10 August 2022 – Kick off briefing • 08 March 2023 - Final briefing to discuss council's recommendation: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk, Nicole Gurrán, Sue Weatherly, Mark McCrindle ○ <u>Council assessment staff</u>: Madeleine Bayman, Cassandra Williams, Rodney Pickles ○ <u>Applicant</u>: Dan Brindle, David Krakowszky, Lise-Maree Carrigan, Ross Shepherd, Pay and Allesandro. |
| 9 | COUNCIL RECOMMENDATION | Approval |
| 10 | DRAFT CONDITIONS | Attached to the Council Assessment Report |