

COUNCIL ASSESSMENT REPORT

SYDNEY NORTH PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSNH-623 - DA/254/2025
PROPOSAL	Demolition of existing structures, Torrens title subdivision of 8 lots into 2 lots, construction of seniors living development comprising 3x 2-storey buildings containing 48 independent living units and civil works
ADDRESS	Lots 3, 4, 5, 6, 7, 8, 9 and 10 DP 35569, Nos. 1-11 and 15-17 Barrett Avenue, Thornleigh
APPLICANT	Seant Carty - Link Wentworth Housing Limited
OWNER	Link Wentworth, Homes NSW
DA LODGEMENT DATE	4 April 2025
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Clause 2.19(1) and Clause 4 of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021: The application is for development carried out on behalf of the Crown with an estimated cost of more than \$5 million.
CIV	\$20,384,355.00 (excluding GST)
CLAUSE 4.6 REQUESTS	Section 108(2)(c) of the Housing SEPP which permits a floor space ratio (FSR) is 0.5:1 or less.
KEY SEPP/LEP	Housing SEPP
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	Three and key issues relate to overshadowing, privacy and bulk and scale.
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Architectural Plans • Landscape Plans • Stormwater Plans • Clause 4.6 • Statement of Environmental Effects
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	N/A
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	22 October 2025
PLAN VERSION	P6
PREPARED BY	Tim Buwalda, Senior Town Planner
COI DECLARATION	No conflict of interest declared
DATE OF REPORT	15 October 2025

EXECUTIVE SUMMARY

The development application (DA/254/2025) seeks consent for the demolition of existing buildings, Torrens title subdivision of 8 lots into two and construction of three buildings, each comprising of 16 Independent Living Units for Seniors Living. Associated landscaping, car parking and stormwater infrastructure is also proposed.

The Site is comprised of eight individual lots known as at Lots 3-10 DP 35569, Nos. 1-11 and 15-17 Barrett Avenue, Thornleigh which contains two street frontages to Barrett Avenue and Sinclair Avenue. The site has an area of 5,731.58m².

Existing development on the site consists of eight dwelling houses and outbuildings with frontages and vehicle access to Barrett Avenue.

Land adjoining the site comprises residential comprising one and two storey dwelling houses and townhouse developments. Headen Park is located to the east of the site across Sinclair Avenue. The Site is situated within a 1.1-kilometre walking distance (or 15-minute walk) of the Thornleigh town centre and Thornleigh Railway Station.

The site is located in the R2 Low Density Residential pursuant to Clause 2.2 of the Hornsby Local Environmental Plan 2013 ('LEP 2013'). While demolition, subdivision is permissible with consent in the R2 zone, the proposed Seniors Living is prohibited. However, Seniors Living is permissible in the R2 zone under the Housing SEPP which overrides the HLEP and therefore the proposal is permissible with consent.

The principal planning controls relevant to the proposal include State Environmental Planning Policy (Housing) 2021 (Housing SEPP), the Hornsby Local Environmental Plan 2013 and the Hornsby Development Control Plan 2024 ('DCP'). The proposal is consistent with various provisions of the planning controls including:

- The proposal complies with the 9.5m building height development standard that is permitted within the Housing SEPP as the building height would be 9.4m.
- The proposal does not comply with the 0.5:1 Floor Space Ratio (FSR) permitted under the Housing SEPP. However, a Clause 4.6 request has been submitted which is considered acceptable to vary the FSR development standard to 0.57:1.
- The development would have a suitable access path to bus stops within 400m of the subject site to provide future senior residents access to public transport services to access facilities.
- The development is generally consistent with the HDCC controls for Medium Density as prescribed in Part 3.2 of the HDCC.
- The proposal is consistent with the objectives of the EP&A Act (orderly and economic development of land) and is in the public interest as it generally complies with the planning controls.
- The proposal satisfactorily addresses the matters for consideration under Section 4.15(1) of the EP&A Act.

There were no concurrence requirements from agencies for the proposal and the application is not integrated development pursuant to Section 4.46 of the Environmental Planning and Assessment Act 1979 ('EP&A Act').

Jurisdictional prerequisites to the grant of consent imposed by the following controls have been satisfied including:

- Section 4.6 of the Resilience and Hazards SEPP for consideration of whether the land is contaminated.

The application was placed on public exhibition from 26 April 2025 until 10 May 2025, with three submissions being received. These submissions which raised issues relating to building height, streetscape and site context, views, residential use in an infrastructure zone, overdevelopment, and potential acoustic, privacy and overshadowing impacts. These issues are considered further in this report.

The application is referred to the Sydney North Planning Panel ('the Panel') as the development is 'regionally significant development', pursuant to Section 2.19(1) and Clause 4 of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021: The application is for development carried out on behalf of the Crown with an estimated cost of more than \$5 million.

A briefing was held with the Panel on 18 June 2025 where key issues were discussed including the exceedance of the Housing SEPP development standard of FSR, setbacks, overshadowing impacts to neighbours, relocation of bus stops, bin storage areas and stormwater.

The applicant has provided additional information to address these issues raised.

The key issues associated with the proposal included:

1. *Location and access to facilities and services* - The proposed seniors living is required to be located within 400m of a bus stop accessed via a suitable access path. The development proposes the relocation of two bus stops to meet the 400m requirements and civil works to upgrade the existing path to achieve the suitable access path requirements. The relocation of the bus stops has been approved by the Hornsby Local Traffic Committee and the civil works upgrades are considered acceptable; therefore, the development would meet the requirements of the housing SEPP for location and access to facilities and services, subject to the bus stops being relocated prior to the issue of the Occupation Certificate.
2. *Bulk and Scale* - The bulk and scale of the proposal is compatible with the existing prevailing character of the surrounding residential area.
3. *Overshadowing of adjoining properties* - the applicant has provided further sunlight access diagrams to detail how the proposed development would not have adverse impacts to adjoining properties and generally comply with the HDCP controls for sunlight access.

Following consideration of the matters for consideration under Section 4.15(1) of the EP&A Act, the provisions of the relevant environmental planning policies, in particular the Housing SEPP, the proposal can be supported.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(a) of the EP&A Act, DA/254/2025 is recommended for approval subject to the conditions contained at Attachment A of this report.

1. THE SITE AND LOCALITY

1.1 The Site

The site is comprised of eight individual lots known as at Lots 3-10 DP 35569, Nos. 1-17 Barrett Avenue have a combined frontage of 126.7m, to Barrett Avenue and 44.8m frontage to Sinclair Avenue.

The combined site has an area of 5,731.58m².

The site has an average gradient of 8% crossfall from north-west to south-east with the steepest section of the site located in the south-eastern corner which has a gradient of 11%.

The site contains 8 existing single storey dwelling houses and outbuildings which all contain vehicle access to Barrett Avenue.



Figure 1: Site Location Plan (source: Intramaps)

1.2 The Locality

The general locality is comprised of low-density residential housing including one and two storey dwelling houses and townhouse developments. Headen Park is located to the east of the site across Sinclair Avenue. The site is situated within a 1.1-kilometre walking distance (or 15-minute walk) of the Thornleigh town centre and Thornleigh Railway Station.

There are existing bus stops within Duffy Avenue which provide public transport to and from Hornsby Town Centre.

Thornleigh Public School is located to west of the site. Access to Pennant Hills Road and the arterial road system is to the east of the site.

There are similar social housing complexes opposite the site on Barrett Avenue and along the western side of Kentwell Avenue.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The application proposes the demolition of all structures and construction of three, two storey buildings containing a total of 48 independent living units (ILUs) for the purpose of seniors living.

The application proposes Torrens title subdivision of the eight existing lots into two lots.

- Proposed Lot 1 would have an area of 1,910.6m² and would have one building, identified as Building A.
- Proposed Lot 2 would have an area of 3,820m² and would have two buildings, identified as Buildings B and C.

Proposed Lot 1 and Building A would comprise of 16 ILUs comprising 12x 1-bedrooms and 4x 2-bedrooms. Each level would be serviced by an internal lift and stairwell. A bin storage area is proposed within the Barrett Avenue frontage and four car parking spaces including two disabled spots are provided via an on-grade car park.

Proposed Lot 2 and Buildings B and C would comprise of 32 ILUs comprising 24x 1-bedrooms and 8x 2-bedrooms. Each level would be serviced by an internal lift and stairwell. Two bin storage areas are proposed within the Barrett Avenue frontage and eight car parking spaces including 2 disabled spots are provided via an on-grade car park.

Solar panels are proposed on each building.

Collected stormwater for both lots would be piped to Council's drainage system within Sinclair Avenue via proposed inter-allotment drainage easements and on-site detentions.

The application proposes the relocation of bus stops in front of 81 Duffy Avenue (Stop ID 2120101) and the stop in front of 72B Duffy Avenue (Stop ID 2120113), Thornleigh to 71 Duffy Avenue and 58 Duffy Avenue, Thornleigh respectively.

The application proposes civil works upgrades to the western side of the intersection of Kentwell Avenue and Roach Avenue.

The proposal includes the removal of 29 trees.

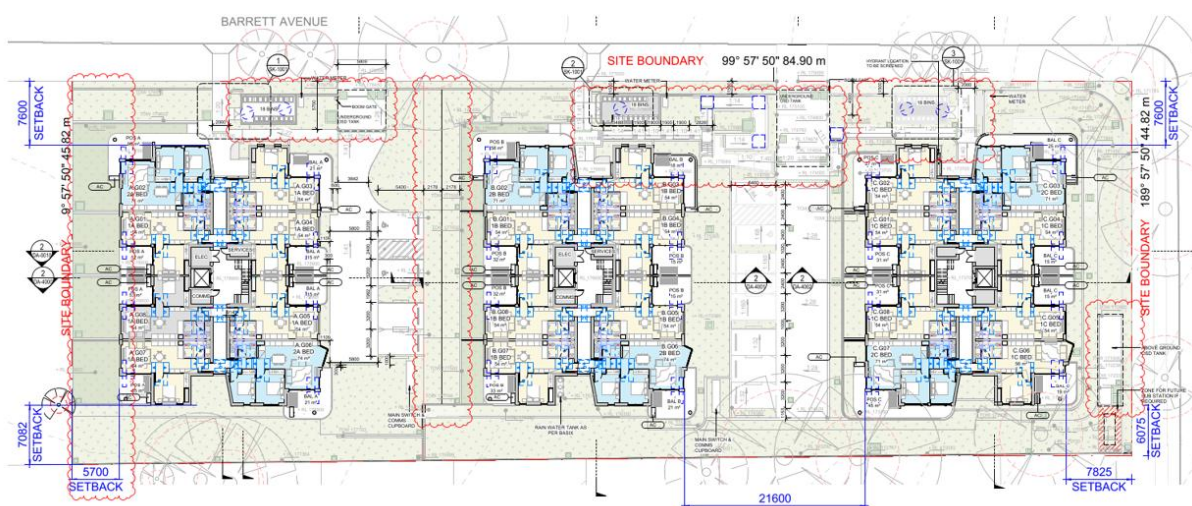


Figure 2: Proposed Ground Floor Plan (source: Place Studio)

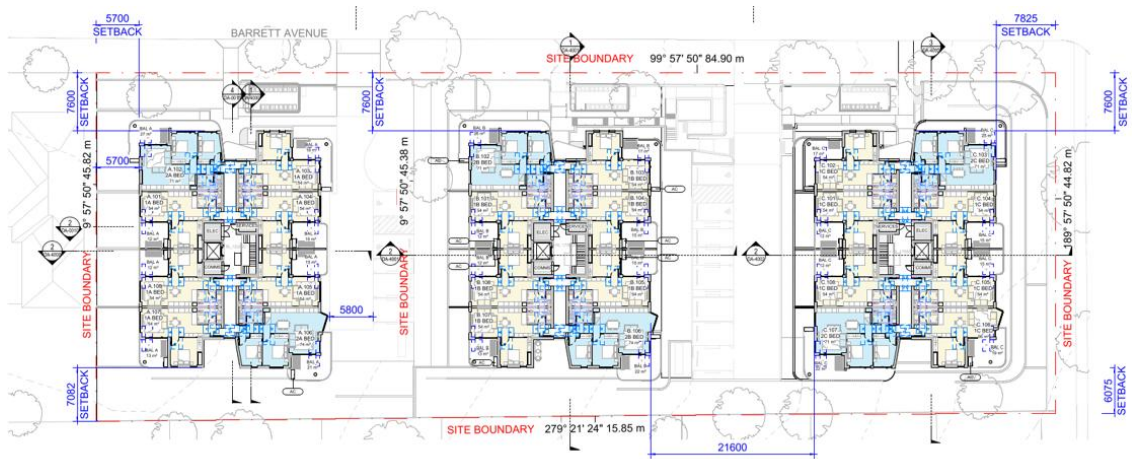


Figure 3: Proposed First Floor Plan (source: Place Studio)



Figure 4: Barrett Avenue Elevation (source: Place Studio)

The key development data for the proposal is provided in Tabel 1 below.

Table 1: Development Data

Control	Proposal
Site area	5,731.58m ²
GFA	3,196.85m ²
FSR (residential)	0.57:1
Clause 4.6 Request	Yes
No. of Independent living units	48
Max. Height	9.4m
Landsaped Area	2,245.85m ² (39%)
Car Parking Spaces	12
Setbacks <ul style="list-style-type: none"> - Barrett Avenue - Sinclair Avenue - Rear (south) - Side (west) 	7.6m 7.6m 6m 5.7m
Deep Soil landscaping	1,396.34m ² or 24%

2.2 Background

A pre-lodgement meeting was held prior to the lodgement of the application on 16 August 2024 where various issues were discussed. A summary of the key issues and how they have been addressed by the proposal is outlined below:

- Height - A height plane diagram has been provided to detail how the development complies with the 9.5m development standard.
- FSR - A Clause 4.6 request has been submitted to contravene the FSR development standard prescribed under Section 108(2)(c) of the Housing SEPP.
- Stormwater Drainage - A stormwater plan has been submitted.
- Traffic - A traffic report has been submitted.
- Tree impacts - An arborist report has been submitted.
- Waste - An operation waste management plan has been submitted.
- Contamination - A Preliminary Environmental Site Investigation (Stage 1) has been submitted.
- Earthworks - A cut and fill plan has been submitted.
- Urban Design - the SEE and architectural plans address the urban design.

The development application was lodged on 4 April 2025. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Table 2: Chronology of the DA

Date	Event
22/07/2024	PL lodged
16/08/2024	PL advice provided
04/04/2025	DA lodged
15/04/2025 - 05/05/2025	Exhibition of the application
05/05/2025	Request for Information from Council to applicant requesting a Plan of Subdivision prepared by a registered surveyor.
12/05/2025	Council received the proposed Plan of Subdivision
18/06/2025	Panel briefing
02/07/2025	Request for additional information to address landscaping, setbacks, bin storage areas, Clause 4.6, overshadowing, footpaths, stormwater management and contamination.
31/07/2025	Additional information received to address Council's RFI. An amended Clause 4.6, landscape plans, architectural plans, shadow diagrams were provided.
10/09/2025	Local Traffic Committee approved LTC 17/25 for the relocation of bus stops on Duffy Road.

07/10/2025	Draft Conditions sent to the applicant
15/10/2025	Council received approval from Crown for imposition of conditions

3. STATUTORY CONSIDERATIONS

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*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (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 not considered to be:

- Integrated Development (s4.46)
- Designated Development (s4.10)
- Requiring concurrence/referral (s4.13)

The proposal is considered to be a Crown DA (s4.33) and written agreement from the Crown to the proposed conditions of consent has been provided.

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

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

The following Environmental Planning Instruments are relevant to this application:

- Hornsby Local Environmental Plan 2013
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022

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 Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
HLEP	Clause 2.3: Permissibility and zone objectives Clause 4.3: Height of Buildings does not comply with the 8.5m building height development standard) however, the development complies with the 9.5m development standard of the Housing SEPP which overrides the HLEP.	Y
SEPP (Biodiversity & Conservation)	Chapter 2: Vegetation in non-rural areas Chapter 6: Water catchments	Y/N
SEPP (Housing)	Chapter 3: Seniors Living - discussed in detailed in Section 3.2.4 of this report.	Y
SEPP (Planning Systems)	Chapter 2: State and Regional Development Clause 2.19(1) and Clause 4 of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021: The application is for development carried out on behalf of the crown with an estimated cost of more than \$5 million.	Y
SEPP (Resilience & Hazards)	Chapter 4: Remediation of Land Section 4.6: Contamination and remediation have been considered in the Contamination Report and the proposal is satisfactory subject to conditions.	Y
SEPP (Sustainable Buildings)	No compliance issues identified subject to imposition of conditions on any consent granted.	Y

Consideration of the relevant SEPPs is outlined below.

3.2.1 Hornsby Local Environmental Plan 2013

The relevant local environmental plan applying to the site is the Hornsby Local Environmental Plan 2013 ('the LEP'). The aims of the LEP include:

- (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) *to facilitate development that creates—*

- (i) *progressive town centres, thriving rural areas and abundant recreation spaces connected by efficient infrastructure and transport systems, and*
- (ii) *a well-planned area with managed growth to provide for the needs of future generations and people enriched by diversity of cultures, the beauty of the environment and a strong economy,*
- (b) *to guide the orderly and sustainable development of Hornsby, balancing its economic, environmental and social needs,*
- (c) *to permit a mix of housing types that provide for the future housing needs of the community near employment centres, transport nodes and services,*
- (d) *to permit business and industrial development that meets the needs of the community near housing, transport and services, and is consistent with and reinforces the role of centres within the subregional commercial centres hierarchy,*
- (e) *to maintain and protect rural activities, resource lands, rural landscapes and biodiversity values of rural areas,*
- (f) *to provide a range of quality passive and active recreational areas and facilities that meet the leisure needs of both the local and regional community,*
- (g) *to facilitate the equitable provision of community services and cultural opportunities to promote the well being of the population of Hornsby,*
- (h) *to protect and enhance the scenic and biodiversity values of environmentally sensitive land, including bushland, river settlements, river catchments, wetlands and waterways,*
- (i) *to protect and enhance the heritage of Hornsby, including places of historic, aesthetic, architectural, natural, cultural and Aboriginal significance,*
- (j) *to minimise risk to the community in areas subject to environmental hazards, including flooding and bush fires.*

The proposal is consistent with these aims as the proposal would provide a mix of housing types as social housing for seniors.

3.2.1.1 Zoning and Permissibility (Part 2)

The site is located within the R2 Low Density Residential zone pursuant to Clause 2.2 of the LEP.



Figure 5: Land Zone Map (Hornsby Local Environmental Plan 2013)

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of Seniors Living which is a prohibited land use within the Land Use Table in Clause 2.3.

However, the application relies on Cause 79 and 81 of the Housing SEPP which permits seniors living on R2 land zone. The Housing SEPP overrides the HLEP and therefore the proposed development is permissible with consent.

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- *To provide for the housing needs of the community within a low-density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal is considered to be consistent with these zone objectives for the following reasons:

- The development would provide residential accommodation for seniors living.
- The development is located within proximity to public transport to allow residents to access local facilities and services.

3.2.1.2 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. The proposal exceeds the Floor Space Ratio non-discretionary development standard as outlined in Section 108(2)(c) of State Environmental Planning Policy (Housing) 2021 (Housing SEPP) and accordingly, a Clause 4.6 request has been provided with the application for the exceedance of the maximum Floor space Ratio.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Minimum subdivision Lot size (Cl 4.1)	500m ²	1,910.6m ² & 3,820m ²	Y
Height of buildings (Cl 4.3(2))	9.5m	9.4m	Y
FSR (Cl 4.4(2))	0.5:1 (2,865.79m ²)	0.57:1 (3,196.85m ²)	N
Heritage (Cl 5.10)	N/A	N/A	N/A
Flood planning (Cl 5.21)	N/A	N/A	N/A
Acid sulphate soils (Cl 6.1)	N/A	N/A	N/A
Earthworks (Cl 6.2)	Discussed below	Discussed below	Y
Terrestrial Biodiversity (Cl 6.4)	N/A	N/A	N/A

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

3.2.1.3 Clause 4.6 Request

Section 108(2)(c) of the Housing SEPP provides that the density and scale of independent living unit buildings when expressed as a floor space ratio (FSR) is 0.5:1 or less. With a site area of 5,731.58m², this equates to a maximum gross floor area (GFA) of 2,865.79m². The proposed development has a GFA of 3,196.85m², which equates to a FSR of 0.57:1.

The proposal exceeds the FSR non-discretionary development standard by 11.55% or 331.06m².

Clause 4.6(4) of the LEP establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard. Clause 4.6(2) provides this permissive power to grant development consent for a development that contravenes the development standard is subject to conditions.

The two preconditions include:

1. Tests to be satisfied pursuant to Cl 4.6(4)(a) - this includes matters under Cl 4.6(3)(a) and (b) in relation to whether the proposal is unreasonable and unnecessary in the circumstances of the case and whether there are sufficient environmental planning grounds to justify contravening the development standard and whether the proposal is in the public interest (Cl 4.6(a)(ii)); and
2. Tests to be satisfied pursuant to Cl 4.6(b) - concurrence of the Planning Secretary.

These matters are considered below for the proposed development having regard to the applicant's Clause 4.6 written request.

Unreasonable and unnecessary (Clause 4.6(3)(a))

The Clause 4.6 request addresses the court principles of *Wehbe v Pittwater Council* [2007] NSWLEC 827 which established five potential ways or tests for determining whether a development standard could be considered to be unreasonable or unnecessary. It is noted that a development does not have to satisfy all five tests, only satisfying one test is sufficient to justify the development standard variation.

The applicant's request justifies that the development meets the first test which states '*the objectives of the standard are achieved notwithstanding non-compliance with the standard*' as follows (summarised):

- There are no objectives associated with the non-discretionary development standard or Section 108 of the Housing SEPP in general. However, there are a number of principles for the entire Housing SEPP detailed in Clause 3 of the Housing SEPP. The proposal would meet these principles as it would:
 - *encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,*
 - *ensuring new housing development provides residents with a reasonable level of amenity.*
- The proposed variation is important because it allows for the optimisation of the delivery of social housing for seniors to meet the needs of very low-, low- and moderate-income households on site and within the environmental capacity of the 9.5 metre height control which satisfies the principles of the Housing SEPP.
- The site benefits from existing roadways on two sides.
- The proposal incorporates appropriate separation to comply with the building design criteria of HDCP.
- It is considered the proposal has been designed with consideration of the visual impact of the development on the locality. The proposal incorporates high quality and articulated facades that will contribute to architectural diversity to deliver a streetscape with visual interest.
- The increased floor area contributes to the articulation of the buildings.
- The proposal meets the objectives of the development standard and meets the objectives of the R2 Low Density Residential zone. The proposal is also consistent with Council's adopted

Hornsby Local Strategic Planning Statement (2020), Housing Strategy (2020) and Hornsby Affordable Housing Strategy (2024) which supports providing affordable housing for local residents (e.g. the elderly and disabled).

- Consistent with the other non-discretionary development standards and the intent of HDCP, the proposal complies in that no building has a height of more than 9.5 metres consistent with the Housing SEPP height development standard, a minimum landscaped area of 30% (39.18% is proposed), a minimum of 15% deep soil zone (24.37% is proposed) and minimum of 2 hours direct solar access to at least 70% of the dwellings (84% is proposed) and building setback controls.
- Despite the exceedance in prescribed FSR, the proposal is consistent with the character anticipated by the planning controls of the streetscape and will revitalise the existing housing stock and choice whilst contributing positively to the overall character of the streetscape generally.
- The above environmental planning grounds are not general propositions and are unique circumstances to the proposal, particularly the fact that the additional FSR is contained at the interior of three permissible buildings which could be accommodated on the Site and the disconnect between the FSR and a development of the Site for seniors housing which will be leased to social housing tenants with one of three buildings owned by Homes NSW and all buildings to be managed by the Applicant.
- The proposal is in line with the capacity of existing and planned infrastructure for the locality.

Environmental Planning Grounds (Clause 4.6(3)(b))

The applicant's request provides environmental planning grounds to support the proposed contravention which are summarised below:

- The development complies with the numerical controls for setbacks, landscaping, building height and deep soil.
- The proposal will provide equitable access across all dwellings (100% adaptable dwellings). The proposed distribution of GFA over two levels will provide a high level of articulation and present a building that is not visually jarring to the casual observer on Barrett Avenue and Sinclair Avenue when viewed in context of surrounding properties.
- The areas that exceed the development standard are not discernible as viewed from the public domain, and do not contribute to distinguishable bulk, scale or density of the buildings. The testing of planning controls including building height, setbacks, landscaped area and deep soil zone demonstrate that the proposal is consistent with the anticipated built form outcome for the Site and will achieve a built form outcome that is consistent with the intended outcome of the existing FSR controls.
- The design of the proposed buildings and arrangement of massing has been carefully considered and is supported by the height and scale of other neighbouring and nearby developments with similar height, bulk and scale within the R2 Low Density Residential one. The additional FSR for this proposal is not considered to be significant in this context and does not result in any perceptible or detrimental impact or a built form outcome which differs from that which could be expected on the Site under the Housing SEPP. Therefore, the appropriate contextual fit of the proposal provides an environmental planning ground to support the proposed variation.

- It is noted that Preston CJ provides that the development is not required to demonstrate a beneficial effect relative to a compliant development, however, in this instance it is considered that strict compliance would not achieve any improved outcome for the development and would in fact result in a diminished outcome, simply resulting in less housing and in particular social housing for seniors and persons with a disability than that which is capable of being provided within the demonstrated environmental capacity of the Site.
- The variation to the FSR allows for an equitable distribution of GFA that will enhance the amenity of apartments in terms of layout, ventilation and solar access. An alternative FSR compliant scheme would delete floor space at the centre of the building which would not provide any planning benefits, but instead, a disproportionate result to the amenity impacts caused by the FSR variation. That is, strict compliance will result in a poorer planning outcome.
- The proposal takes its cues from surrounding buildings and maintains a two-storey presentation to all boundaries, providing greater setbacks between buildings than currently exists (7.6 metres to the north, 7.825 metres to the east, 6.075 metres to the south and 5.7metres to the west) than would be required for new built form under the Complying Development pathway, with increased opportunities for deep soil landscaping, consistent with the existing landscaped gardens in the locality.
- As demonstrated in the accompanying shadow diagrams, the extent of non-compliance does not create overshadowing that would be inconsistent with HDCP requirements, that is the accompanying shadow analysis illustrates the surrounding topography and existing boundary fence separating the Site with No. 30A Oakleigh Avenue, Thornleigh NSW 2120 casts a shadow that prevents at least 50% of the private open space from receiving the required 3 hours of direct sunlight
- Strict compliance with the 0.5:1 FSR non-discretionary development standard would result in a reduction of 331.06m² of floor space, or approximately 6 social housing units in total, all of which are proposed as social housing units.
- The proposed variation to the FSR non-discretionary development standard is unlike a variation to a height control for example, where there is a specific area of encroachment. In this regard, there is not necessarily one specific area(s) responsible for the FSR variation. However, the overall visual impact of the building mass based on the FSR variation is considered minor with the building design incorporating a number of design elements to reduce the overall mass including setbacks, articulation, fenestration, balconies, etc. The building masses as proposed also provide a suitable transition within the desired future character for the area.

It is noted that if each existing site (total of 8 lots) developed to the maximum floor area permitted under the HDCP (380m² for a dwelling house and an additional 60m² for outbuildings) the total floor area would be 3,520m² which is 323.15m² more than the proposed GFA of 3,196.85m².

For the reasons outlined above, it is considered that the written request to contravene the Floor Space Ratio non-discretionary development standard as outlined in Section 108(2)(c) of State Environmental Planning Policy (Housing) 2021 adequately demonstrates that the bulk and scale of the development would be appropriate and the clause 4.6 is considered satisfactory.

Planning Panels constituted under the *Environmental Planning and Assessment Act 1979* exercise consent authority functions on behalf of a Council and are not delegates of Council. Therefore, the Sydney North Planning Panel may determine a development application notwithstanding, a numerical non-compliance in excess of 10%.

Accordingly, it is considered that the written request satisfactorily responds to the relevant matters required to be addressed under Clause 4.6(3) and that the Panel, as the consent authority, may rely upon the written request and grant consent to the proposed development.

3.2.1.4 Earthworks

The objective of Clause 6.2 Earthworks of the HLEP is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The application proposes a maximum fill of 0.9m for Building A, 1.1m of fill for Building B and 1.9m for Building C.

This fill is required to ensure that the building platforms provide accessible access to each building as well as conforming to the slope of the site which has a gradient of 8% across the site from north-west to south-east. It is noted that the steepest section of the site is located within the south-east corner which has a gradient of 11% where building C would be located.

Minimal excavation is proposed as part of this application.

A condition is recommended to ensure a Construction Traffic Management Plan is submitted and approved by Council prior to the issue of a Construction Certificate. The CTMP would address the importation of fill and associated noise from the importation of fill and earthworks.

Table 5: Earthworks Compliance Table

Matters for Consideration	Comment
(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development	There will be minimal impacts to the drainage pattern of the locality as the development would be serviced by an appropriate stormwater drainage system that connects to Council's piped stormwater infrastructure.
(b) the effect of the development on the likely future use or redevelopment of the land	The proposed earthworks would have negligible effect on the future re-development of the land noting that minimal excavation is proposed.
(c) the quality of the fill or the soil to be excavated, or both	Appropriate conditions are recommended to ensure any fill or excavated material is appropriately classified to ensure it is clean material.
(d) the effect of the development on the existing and likely amenity of adjoining properties	The proposed earthworks would have minimal impact on the adjoining properties noting that they are setback approximately 6m from the site's boundaries. Further discussion on the impacts of the development on adjoining properties are discussed in the body of this report.
(e) the source of any fill material and the destination of any excavated material	Appropriate conditions are recommended to ensure the fill and excavated material are appropriately classified and disposed of at an approved waste facility.

(f) the likelihood of disturbing relics	Council has no record of any historical items or events of note on the subject site, of either Aboriginal or European Heritage. It is therefore considered that the proposed works are unlikely to disturb any relics.
(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area	There is no drinking water catchment within close proximity to the site.
(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development	Appropriate measures have been included as conditions of development consent in Schedule 1 of this report to avoid, minimise and mitigate the impacts of the development.

3.2.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The application has been assessed against the requirements of chapters 2 and 6 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

3.2.2.1 Chapter 2 Vegetation in Non-Rural Areas

Chapter 2 of this policy aims to protect the biodiversity and amenity values of trees within non-rural areas of the state.

Part 2.9 of the policy states that a development control plan may make a declaration in any manner relating to species, size, location and presence of vegetation. Accordingly, Part 1.2.6.1 of the HDCP prescribes works that can be undertaken with or without consent to trees and objectives for tree preservation.

Section 3.4.1 of this report provides an assessment in accordance with Part 1.2.6.1 of the HDCP.

3.2.2.2 Chapter 6 Water Catchments

The site is located within the catchment of the Hawkesbury-Nepean River. The aim of this chapter is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of development are considered in the regional context. This chapter contains general planning considerations and strategies requiring Council to consider the impacts of development on water quality, aquaculture, significant vegetation habitats, extraction, environmental heritage and scenic quality, recreation and tourism, and agriculture.

The plan addresses matters related to biodiversity, ecology and environment protection; public access to, and use of, foreshores and waterways; interrelationship of waterway and foreshore uses; foreshore and waterways scenic quality; maintenance, protection and enhancement of views and boat storage facilities.

Subject to the implementation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would not impact on the water quality of the catchment and would comply with the requirements of chapter 6 of the Biodiversity and Conservation SEPP.

3.2.3 State Environmental Planning Policy (Sustainable Buildings) 2022

The application has been assessed against the requirements of chapter 2 of State Environmental Planning Policy (Sustainable Buildings) 2022 which seeks to encourage the design and delivery of more sustainable buildings.

Chapter 2 sets out the Standards for residential development. The proposal includes a BASIX certificate in accordance with the requirements of the SEPP including the list of commitments to be complied with at the construction stage and during the use of the premises. The BASIX certificate achieves the minimum scores for energy and water use, and thermal performance.

The proposal is acceptable in this regard.

3.2.4 State Environmental Planning Policy (Housing) 2021

The application has been assessed against the requirements of Chapter 3 of State Environmental Planning Policy (Housing) 2021, Chapter 3, Part 5 - Division 1 of the Housing SEPP.

The subject site is in the R2 Low Density Residential zone pursuant to the Hornsby LEP 2013. Clause 79(c) of the SEPP states that Part 5 applies to land in the R2 Low Density Residential zone. The site is not identified as 'environmentally sensitive land' pursuant to Schedule 3 of the SEPP and as such is not precluded pursuant to Clause 80(1) of the SEPP.

Table 6: Housing SEPP Compliance Table

Control	Proposal	Requirement	Complies
Clause 84 and 85 Development Standards (general and for hostels and independent living units)			
Site Area	5,731.58m ²	> 1,000m ²	Y
Frontage width	126.7m	> 20m measured at the building line	Y
Building Height	9.4m	max. 9.5m	Y
Building Envelope	Only 2 storey buildings are proposed	Development that results in >2 storeys are setback @ 45 degrees	Y
Height of Servicing Equipment	No servicing equipment is proposed at the roof level.	max 11.5m	Y
Development standards for hostels and ILUs	See discussion in Section 3.2.4.1 of report	Detailed in Section 3.2.4.1 of this report	Y
Clause 88 Restrictions on occupation of seniors housing			
Restrictions on occupation of seniors housing	The development would be for seniors housing (See conditions of Consent)	(1) Development permitted under this Part may be carried out for the accommodation of only the following—	Y

		<p>(a) seniors or people who have a disability,</p> <p>(b) people who live in the same household with seniors or people who have a disability,</p> <p>(c) staff employed to assist in the administration and provision of services to housing provided under this Part.</p> <p>(2) Development consent must not be granted under this Part unless the consent authority is satisfied that only the kinds of people referred to in subsection (1) will occupy accommodation to which the development relates.</p>	
Clause 93 Location and access to facilities and services - independent living units (discussed in Section 3.2.4.2 below)			
Clause 95 Water and sewer			
Reticulated Water	The subject site is serviced by existing water utilities and therefore complies	Be connected to a reticulated water system,	Y
Sewer	The subject site is serviced by existing sewer utilities and therefore complies	Have adequate facilities for the removal or disposal of sewage.	Y
Clause 96 Bush fire prone land			
Bushfire	The site is not bushfire prone.	<p>In determining a development application for development under this Part on land near relevant bush fire prone land, the consent authority must—</p> <p>(a) consult with the NSW Rural Fire Service and consider its comments,</p>	Y
Clause 97 Seniors Housing Design Guide (discussed in Sections 3.2.4.3 and 3.2.4.4 of below)			
Cause 108 non-discretionary development standards for independent living units (s 4.15 of Act)			

Building Height	9.4m	No building has a height of more than 9.5m, excluding servicing equipment on the roof of a building,	Y
Floor Space Ratio	0:57:1	The density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less,	N (Section 3.2.1.3)
Landscaping	2,245.85m ²	A minimum landscaped area that is the lesser of— (i) 35m ² per dwelling (1,680m ²), or (ii) 30% of the site area (1,719.4m ²)	Y
Deep Soil Planting	1,396.34m ² or 24%	A deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 3m and, if practicable, at least 65% of the deep soil zone is located at the rear of the site,	Y
Solar Access	84% of the dwellings receive at least 2 hours of direct sunlight between 9am to 3pm.	At least 70% of the dwellings receive at least 2 hours of direct solar access between 9am and 3pm at mid-winter in living rooms and private open spaces,	Y
Private Open Space	2-bedroom units - 21m ² by 3m 1-bedroom units - 15m ² by 3m	(h) for a dwelling in a single storey building or a dwelling located, wholly or in part, on the ground floor of a multi-storey building— (i) at least 15m ² of private open space per dwelling, and (ii) at least 1 private open space with minimum dimensions of 3m accessible from a living area located on the ground floor,	Y
	2-bedroom units - 21m ² by 2.6m 1-bedroom units - 12m ² by 2m	For a dwelling in a multi-storey building not located on the ground floor—a balcony accessible from a Living area	Y

		with minimum dimensions of 2m and— (i) an area of at least 10m ² , or (ii) for each dwelling containing 1 bedroom—an area of at least 6m ² ,	
Car Parking	12 car parking spaces	At least 1 parking space for every 5 dwellings (Social Housing Provider)	Y

3.2.4.1 Clause 85 Development standards for hostels and independent living units

This clause requires developments to comply with development standards contained within Schedule 4 of the Housing SEPP to ensure an adequate level of access for people with disabilities.

Clause 85(2) of the Housing SEPP states:

An independent living unit, or part of an independent living unit, located above the ground floor in a multi-storey building need not comply with the requirements in Schedule 4, sections 2, 5-13 and 15-21 if the development application is made by, or by a person jointly with, a social housing provider or Landcom.

As discussed in this report, the applicant is a social housing provider - Link Wentworth and therefore are not required to comply with sections 2, 5-13 and 15-21 of Schedule 4 of the Housing SEPP.

An assessment against the relevant sections (3, 4 and 22) of Schedule 4 of the Housing SEPP is provided below:

Table 7: Schedule 4 Housing SEPP Compliance Table

Clause	Control	Complies	Comments
3	Letterboxes	Y	To be provided at the entry point
4	Private car accommodation		
	<ul style="list-style-type: none"> - For a group of 2-7 parking spaces, at least 1 car parking space must comply with AS/NZS 2890.6 - Any garage with power operated doors 	Y Y	Parking spaces comply with AS2890.6 No Garages proposed.
22	Garbage <ul style="list-style-type: none"> - A garbage storage area must be provided in an accessible location. 	Y	An accessible path of travel is provided to the bin storage rooms.

As indicated in the above table, the proposal complies with the development standards contained within Schedule 4 of the Housing SEPP.

3.2.4.2 Clause 93 Location and access to facilities and services—-independent living units

Clause 93 of the Housing SEPP states the following:

- (1) *Development consent must not be granted for development for the purposes of an independent living unit unless the consent authority has considered whether residents will have adequate access to facilities and services—*
 - (a) *by a transport service that complies with subsection (2), or*
 - (b) *on-site.*
- (2) *The transport service must—*
 - (a) *take the residents to a place that has adequate access to facilities and services, and*
 - (b) *for development on land in the Eastern Harbour City, Central River City, Western Parkland City or Central Coast City—*
 - (i) *not be an on-demand booking service for the transport of passengers for a fare, and*
 - (ii) *be available both to and from the site at least once between 8am and 12pm each day and at least once between 12pm and 6pm each day, and*
- (3) *For the purposes of subsections (1) and (2), access is adequate if—*
 - (a) *the facilities and services are, or the transport service is, located at a distance of not more than 400m from the site, and*
 - (b) *the distance is accessible by means of a suitable access pathway, and*
 - (c) *the gradient along the pathway complies with subsection (4)(c).*
- (4) *In subsection (3)—*
 - (a) *a suitable access pathway is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and*
 - (b) *the distance is to be measured by reference to the = length of the pathway, and*
 - (c) *the overall average gradient must be not more than 1:14 and the gradients along the pathway must be not more than—*
 - (i) *1:12 for a maximum length of 15m at a time, or*
 - (ii) *1:10 for a maximum = length of 5m at a time, or*
 - (iii) *1:8 for a maximum = length of 1.5m at a time.*

The application proposes the relocation of bus stops in front of 81 Duffy Avenue (Stop ID 2120101) and the stop in front of 72B Duffy Avenue (Stop ID 2120113), Thornleigh to 71 Duffy Avenue and 58 Duffy Avenue, Thornleigh respectively.

This bus stop relocation would ensure that bus stops are located within 400m of the proposed seniors living development.

Regular bus services from these bus stops provide morning and afternoon loop services between Westleigh and Hornsby, Monday through Sunday (route 587) and morning and afternoon services between Westleigh and Pennant Hills, Monday through Friday (route 586), all of which provide convenient access to retail, commercial, community and recreational uses. These bus routes provide hourly bus services which is increased to every 30 minute services during the peak hours.

To ensure that the pedestrian path is a suitable access pathway, the application proposes civil works upgrades to the western side of the intersection of Kentwell Avenue and Roach Avenue

The relocation of bus stops required approval by the Hornsby Local traffic Committee (LTC) which involves the Hornsby Council's Traffic Team, Transport for New South Wales and the CDC Bus Company

The LTC resolved to support LTC 17/25 to relocate the bus stops as this was seen as a better outcome to provide sufficient separation between existing bus stops that would service more of the community.

The relocated bus stops IDs #2120101 and #2120113 located on Duffy Road, would be within 400m walking distance of the subject site and meet the frequency requirements under Section 93(2)(b) of the Housing SEPP.

Subject to the civil works upgrades to the pedestrian path, the pedestrian footpath to the bus stop would meet the suitable access path requirements prescribed in Section 93(3)(c) and Section 93(4) of the Housing SEPP.

Appropriate conditions are recommended to ensure the applicant relocates the bus stops and completes the civil works prior to the issue of an Occupation Certificate.

Council is satisfied that the development will have access to the transport service via a suitable access pathway within 400m of the site and that the residents will have adequate access to facilities and services by a transport service that complies with subsection (2) and will comply with the site access requirements of Clause 93 of the Housing SEPP.

3.2.4.3 Clause 97: Design of seniors housing

Clause 97 of the Housing SEPP states the following:

- (1) *In determining a development application for development for the purposes of seniors housing, a consent authority must consider the Seniors Housing Design Guide, published by the Department in December 2023.*
- (2) *Development consent must not be granted to development for the purposes of seniors housing unless the consent authority is satisfied the design of the seniors housing demonstrates that adequate consideration has been given to the design principles for seniors housing set out in Schedule 8.*

In regard to Clause 97(1), the development has been assessed against the relevant requirements of the Seniors Housing Design Guide ('SHDG'), published by the Department in December 2023.

A brief summary of the assessment is provided in the table below:

Table 8: Seniors Housing Design Guide - Clause 97(1)

Proposal	Requirement	Complies
Designing for Country		
The development generally complies with Compliance with Connecting with Country (GANSW, 2023).	Compliance with Connecting with Country (GANSW, 2023)	Y
Care for the Planet		
The development application is supported by a BASIX certificate meeting the requirements of SEPP (Sustainable Buildings) 2022	Ensure the development meets the sustainability requirements.	Y

Site Analysis - Environmental Response		
The development proposal is supported by consultant reports including, landscape, stormwater, arboricultural, geotechnical, access, traffic and acoustic consultants who have directed the design of the built form.	Engage consultants to ensure the site is capable of accommodating the Seniors Living and the development has been designed to conform to the site.	Y
Site Analysis - Urban Response		
The development is not required to be assessed by the Design Review Committee, notwithstanding, the architectural design of the development is considered be integrated within the site and is considered acceptable.	Provide design excellence that inspires and is proudly integrated with the local neighbourhood.	Y
Heritage		
No heritage listed items within the locality.	Address the heritage requirements of the locality.	Y
Care, Wellbeing and Community		
The development has been designed to allow for adequate cross ventilation, sunlight access and fresh air with eh private open space being located outside on balconies and decks.	6.1.6 Design buildings that promote health and have good cross ventilation, access to sunlight and fresh air.	Y
Design for Physical Aging and Dementia		
The development has been appropriately designed for physically ageing residents and residents with dementia. Appropriate conditions of consent have been imposed.	7.1.2 Design for safety from falling with: <ul style="list-style-type: none"> Slip-resistant, level floor surfaces with particular attention to exterior door thresholds and junctions where flooring material changes. Good colour and/or tonal contrast around doors to clearly delineate the openings. Use of single colours for surfaces. Avoid heavily contrasted patterned surfaces. Considered lighting to manage changes in lighting ambiance and intensity, to minimise deep shadows and provide a variety of light sources. 	Y
Design Principles for Independent Living for High Density		
<i>Neighbourhood Amenity and Streetscape</i> The development would enhance the streetscape through the use of extensive	16.1.3 The design should enhance the streetscape and proudly integrate into the existing context.	Y

<p>landscaping within the front and rear setbacks.</p> <p>The proposed development would provide modern buildings to service senior residents.</p>	<p>16.1.4 Provide a development that embodies design excellence to uplift the future attributes of the local area.</p> <p>16.1.5 Introduce new landscaping and shade trees.</p>	
<p><i>Solar Access and Design for Climate</i></p> <p>All proposed units comply with the solar access requirements and all units have access to communal open space.</p>	<p>Healthy independent living communities are formed between residents who are able to share a communal environment outside of their own private space.</p> <p>A common outdoor terrace provides an alternative aspect from resident's own independent living unit. A shared naturally ventilated drying area reduces reliance on mechanical driers and brings people together</p> <p>Clusters of independent living units on each level enable social cohesiveness and manage corridor distances from the lifts. Maximum daylight accessed in corridors from shared terraces reduces the need for artificial lighting</p>	Y
<p><i>Stormwater</i></p> <p>A Stormwater Management Plan prepared by Telford Civil has been submitted as part of the application addressing stormwater management on the site.</p>	<p>16.3.3 Provide opportunities to increase the catchment and/or absorption of stormwater with systems such as vegetated swales, sediment basins, detention pits and porous landscape paving.</p> <p>16.3.4 Maximise areas for deep soil landscape so that plants can mature into dense stormwater catchment areas and absorb ground water</p>	
<p><i>Crime Prevention</i></p> <p>The development has been designed to allow for passive surveillance.</p> <p>CPTED principles are discussed further in Section 3.7.11 of this report.</p>	<p>16.4.4 Facilitate opportunities for casual passive surveillance in multistorey independent living buildings with views from balcony O+ to public areas below.</p> <p>16.4.5 Provide well-lit pathways, thresholds and transitions between inside and outside and at property boundaries.</p> <p>16.4.6 Install movement sensor lighting.</p>	Y

<p><i>Accessibility</i></p> <p>The proposal includes lifts to service all levels of the development and appropriate ramps for accessibility within and around the site.</p>	<p>16.5.2 Arrange independent living units on each floor with clear sightlines to and from lifts. Manage corridor lengths and cluster groups of units around a common core. Number of units which are accessed by each lift core may need to suit the provision of care and serviceability for staff and carers. Lifts need to be sized to accommodate mobility equipment and also ambulance stretcher. Articulate corridors with indents at unit thresholds to allow residents to personalise their own entries and for wheelchairs and walkers to park.</p> <p>The accessibility requirements for seniors housing are set out in Schedule 4 of the SEPP (Housing) 2021 and in the National Construction Code.</p>	Y
<p><i>Waste Management</i></p> <p>The development provides sufficient waste management and appropriate conditions are recommended.</p>	<p>16.6.4 Provide appropriately sized disposal points that can accommodate bins for the various waste types including recyclables.</p> <p>16.6.5 Ensure that waste collection points are safely located away from resident areas, are covered and easily accessible</p>	Y
<p><i>Basement Access and Car Park</i></p> <p>No basement car park proposed.</p>	<p>16.8.2 Ease of entry should be supported with a level stopping point for access to intercom and secure access at the security threshold. Clear sightlines are required or separate driveways for each direction. Paths for pedestrian access to and from basement carpark must provide safe access away from vehicle movements.</p>	Y
<p><i>Open Space and Landscape</i></p> <p>Sufficient open space and landscaping has been provided.</p>	<p>16.9.2 Stagger and articulate setback distances and maximise setbacks for meaningful use, including to utilise deep soil for mature shade trees to establish and flourish.</p>	Y

<p><i>Neighbourhood Amenity and Streetscape</i></p> <p>The development would enhance the streetscape through the use of extensive landscaping within the front and rear setbacks.</p> <p>The proposed development would provide modern buildings to service senior residents.</p>	<p>16.1.3 The design should enhance the streetscape and proudly integrate into the existing context.</p> <p>16.1.4 Provide a development that embodies design excellence to uplift the future attributes of the local area.</p> <p>16.1.5 Introduce new landscaping and shade trees.</p>	Y
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In regard to Clause 97(2), a detailed assessment is provided in Section 3.2.4.4 below.

3.2.4.4 Schedule 8 - Design Principles for Seniors Housing (Clause 97(2))

Schedule 8 of the Housing SEPP sets out the design principles for seniors housing, which are addressed in Table 9 below.

Table 9: Schedule 8 Design Principles Compliance Table

Proposal	Requirement	Complies
1 Neighbourhood amenity and streetscape		
<p>The development has been designed to be sympathetic to the locality through the extensive landscaping of the site, integration of the buildings within the landscape form and flat roof to minimize the bulk and scale. been designed to be sympathetic to the Heritage Conservation Area.</p> <p>The development complies with the sunlight access impacts to adjoining properties which is discussed in further detailed in Section 5.1.3 of this report.</p> <p>The development proposes appropriate setback to boundaries to ensure adjoining buildings are not impacted.</p> <p>There are no significant trees within the site that would warrant a redesign and appropriate replacement planting is proposed.</p>	<p>Seniors housing should be designed as follows—</p> <p>(a) to recognise the operational, functional and economic requirements of residential care facilities, which typically require a different building shape from other residential accommodation,</p> <p>(b) to recognise the desirable elements of—</p> <p>(i) the location's current character, or</p> <p>(ii) for precincts undergoing a transition—the future character of the location so new buildings contribute to the quality and identity of the area,</p> <p>(c) to complement heritage conservation areas and heritage items in the area,</p> <p>(d) to maintain reasonable neighbourhood amenity and appropriate residential character by—</p> <p>(i) providing building setbacks to reduce bulk and overshadowing, and</p>	Y

	<ul style="list-style-type: none"> (ii) using building form and siting that relates to the site's land form, and (iii) adopting building heights at the street frontage that are compatible in scale with adjacent buildings, and (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, (e) to set back the front building on the site generally in line with the existing building line, (f) to include plants reasonably similar to other plants in the street, (g) to retain, wherever reasonable, significant trees, (h) to prevent the construction of a building in a riparian zone. 	
2 Visual and Acoustic Privacy		
The development has been designed to limit privacy impacts to adjoining properties through the location of windows and privacy screens to balconies. See section 3.4.7.4 of this report for further discussion.	<p>Seniors housing should be designed to consider the visual and acoustic privacy of adjacent neighbours and all residents of the seniors housing by—</p> <ul style="list-style-type: none"> (a) using appropriate site planning, including considering the location and design of windows and balconies, the use of screening devices and landscaping, and 	Y
Noise Impact Assessment prepared by Thermal Environmental was submitted with the development which outlines how the development complies with acceptable noise impacts to the bedrooms.	<ul style="list-style-type: none"> (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths. 	Y
3 Solar Access and Design for Climate		
70% for the proposed units comply with the sunlight access requirements of the Housing SEPP. Further discussion on sunlight access to adjoining properties is discussed in Section 5.1.3 of this report.	<p>The design of seniors housing should—</p> <ul style="list-style-type: none"> (a) for development involving the erection of a new building—provide residents of the building with adequate daylight in a way that does not adversely impact the amount of daylight in neighbouring buildings, and 	Y

The proposal has been designed to maximize solar access to internal living areas and private open space of each dwelling.	Involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation, solar heating and lighting by locating the windows of living and dining areas in a northerly direction.	Y
4 Stormwater		
A suitable stormwater plan has been provided which includes an On-site detention system and appropriate conditions have been recommended.	The design of seniors housing should aim to— (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and	Y
OSD provided within the proposed stormwater plan.	(b) include, where practical, on-site stormwater detention or re-use for second quality water uses.	Y
5 Crime prevention		
The development is designed to promote casual surveillance, units would have appropriate security and locks, and the provisions of peep holes or door viewers would be provided during the CC stage. The applicant submitted a CPTED report by GNL planning which addresses the CPTED principles which have been incorporated into this proposal.	Seniors housing should— (a) be designed in accordance with environmental design principles relating to crime prevention, and (b) provide personal property security for residents and visitors, and (c) encourage crime prevention by— (i) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins the area, driveway or street, and (ii) providing shared entries, if required, that serve a small number of dwellings and that are able to be locked, and (iii) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	Y

6 Accessibility		
The application is accompanied by an Access report prepared by Jensen Hughes dated 22 January 2025 which ensures that the site has sufficient accessibility. Access to facilities is discussed in further detail in Section 3.2.4.2 of this report.	Seniors housing should— (a) have obvious and safe pedestrian links from the site that provide access to transport services or local facilities, and (b) provide safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	Y
7 Waste Management		
The development would incorporate recycling bins within the on-going waste management.	Seniors housing should include waste facilities that maximise recycling by the provision of appropriate facilities.	Y

3.2.5 State Environmental Planning Policy (Planning Systems) 2021

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 4 of Schedule 6 of the Planning Systems SEPP as the proposal is development carried out on behalf of the crown with an estimated cost of more than \$5 million. Accordingly, the Sydney North Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

3.2.6 State Environmental Planning Policy (Resilience and Hazards) 2021

The application has been assessed against the requirements of chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021.

3.2.6.1 Remediation of Land

Section 4.6 of the Resilience and Hazard SEPP states that consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use.

Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make the land suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

The application includes a Stage 1 Preliminary Site Investigation (PSI) dated 11 July 2025 prepared by Sydney Environmental Group. The PSI concludes the land can be considered suitable, for the proposed senior housing residential development and provides several recommendations to be implemented through conditions of consent.

Council concurs with the findings of the PSI and appropriate conditions are recommended.

Therefore, Council is satisfied that the land is considered suitable for the proposed use subject to the recommended conditions.

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

There are no proposed instruments that are relevant to the proposed development.

3.4 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 DCP')

An assessment against the relevant controls of the DCP is discussed below.

The following contributions plans are relevant pursuant to Section 7.18 and 7.28 of the EP&A Act and have been considered:

- Hornsby Shire Council S7.11 Development Contributions Plan 2020-2030
- Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024

As the applicant is made on behalf of the Crown and by a registered Social Housing Provider (Link Wentworth), the application is exempt from paying contributions in accordance with the exempt provisions of the S7.11 Development Contributions Plan and Schedule 2 of the Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024.

3.4.1 Tree Preservation

The application includes an Arborist report prepared by TLC Tree Solutions dated 17 February 2025 which identifies forty-four trees within the vicinity of the proposed works.

The report recommends the removal of 29 trees numbered 4-13 inclusive, 16-31 inclusive, 34, 39 and 40. These trees are all located within the subject site and are unable to be retained due to their location within the site.

Of the 29 trees to be removed, 24 of these trees are identified as exotic species or weed species and no objections are raised to the removal of these trees due to being non-natives and their location within the subject site being unable to be retained.

The remaining trees numbered 8, 12, 16, 18, 22 and 29 are identified as native species, however these trees are not considered to be significant trees and their location within the subject site makes them unable to be retained. No objections are raised to the removal of these trees subject to appropriate replacement planting.

It is noted that the application proposes extensive landscaping of trees and shrubs to offset the removal of these trees with native species. The proposed planting includes a total of 30 native canopy trees and an additional 27 native feature trees. The proposed replacement planting is considered acceptable and a condition is recommended to ensure the planting occurs prior to the issue of an Occupation Certificate.

Appropriate conditions are recommended to ensure the trees to be retained are protected and retained during construction.

The proposal meets the prescriptive measures of Part 1.2.6.1 Tree Preservation and is considered acceptable, subject to conditions.

3.4.2 Stormwater Management

The proposed stormwater concept plan prepared by Telford Civil Engineering dated 18/07/2025 proposes to capture and divert 72% of the site area to the On-site Stormwater Detention (OSD) system.

The site would contain three OSD tanks with a combined storage volume of 98.45m³ to control the flow of water that would connect to Council's Street drainage system within Sinclair Avenue.

The remaining 28% of surface area that bypasses the OSD system would relate to the landscaped areas within the rear and side of the site. It is noted that these areas would be landscaped, and surface

water would generally be absorbed within the landscaped areas. Notwithstanding, stormwater infrastructure (pipes and pits) are proposed along the western side and southern rear boundary to capture any additional surface water.

Conditions are recommended to ensure the stormwater design is connected to Council's stormwater infrastructure.

Council's assessment against the relevant requirements of Part 1.3.1.2 Stormwater Management has raised no concerns with the proposed stormwater drainage plan, subject to the recommended conditions.

3.4.3 Crime Prevention

The Desired Outcome of Part 1.3.2.7 Crime Prevention is "*development designed to reduce crime risk and minimise opportunities for crime*". This desired outcome is supported by the prescriptive control requiring a CPTED assessment.

A CPTED report prepared by GLN Planning has been submitted with the application and is assessed in detailed in Section 3.7.11 of this report.

The amended Statement of Environmental Effects (dated 17 November 2023) included an assessment against the principles of CPTED. Some anti-social behaviour can be mitigated through the Plan of Management A detailed assessment of CPTED Principles is provided in Section 3.7.11 of this report.

3.4.4 Earthworks and Slope

As detailed in Section 3.2.1.4 of this report, the development meets the objectives of Clause 6.2 Earthworks of the HLEP and is considered acceptable.

Part 1.3.1.4 Earthworks and Slope of the HDCP prescribes a maximum depth of fill of 1m above existing ground level.

The development proposes a maximum fill of 0.9m for Building A, 1.1m of fill for Building B and 1.9m for Building C.

In assessing the 0.1m non-compliance for Building B, it is noted that the non-compliance is minimal, and the fill is required to provide a levelled building platform and maintain levels across the building platform to allow for disabled access throughout the building.

In assessing the 0.9m non-compliance for Building C, it is noted that this building is located in the steepest section of the site and the fill is required to maintain disabled access throughout the building.

No objections are raised to the proposed fill as the additional fill would not adversely impact adjoining properties as detailed in Section 5.1.3 of this report, building B would have minimal impacts to the sunlight access to the rear adjoining neighbours and the 0.1m non-complaint fill would not adversely impact this.

Building C would have a compliant sunlight access impact to the rear adjoining properties and is therefore considered acceptable as the fill is required to maintain disabled access throughout the building.

The proposal meets the desired outcomes and prescriptive measures of Part 1.3.1.4 Earthworks and Slope of the HDCP and is considered acceptable, subject to conditions.

3.4.5 Transport and Parking

The Housing SEPP requires a minimum of 1 car parking space per 5 ILUs. The application proposes 12 car parking spaces to service the 48 ILUs which would meet the Housing SEPP requirements.

The proposal provides 4 disabled car parking spaces which is satisfactory, and all parking is provided at grade with appropriate disabled access to each building.

The application includes a Traffic Impact Assessment report prepared by Genesis Traffic dated 20 July 2025.

It is noted that the existing site contained 8 individual dwellings. Applying the Guide to Transport Impact Assessment (2024) the 8 dwellings would generate 6 vehicle trips per hour (VTPH).

The proposed development would generate approximately 0.17 VTPH per unit during the weekday PM peak hour. This would equate to approximately 8.16 VTPH for the development.

Therefore, the traffic generation of the development would only contribute an additional 2 VTPH which is considered minimal and would not impact the local traffic network.

Council's Traffic and Safety Team raised no objections to the proposal with respect to vehicle access and parking, subject to conditions.

The proposal meets the desired outcomes of Part 1.3.2.1 Transport and Parking and Part 3.2.12 Vehicle Access and Parking of the HDCP and is considered acceptable.

3.4.6 Waste Management

The amended proposal has been assessed against desired outcomes of Part 1.3.2.3 Waste Management of the HDCP.

Each building has an associated bin storage area to service the building located within the front setback.

The bin storage areas are sufficient size to accommodate the anticipated waste loads for each building.

Each bin storage area would be integrated within the front setback through extensive landscaping which would minimise the visual impact of the bin storage rooms while allowing the bins to be in the front setback for Council's kerb side collection to enter the property and collect the bins for collection.

A condition is recommended for a 'No Stopping' zone along Barrett Avenue to ensure Council's waste collection vehicle does not have to double park along the street.

Council's waste team have assessed the application and raised no objections, subject to conditions.

The proposal generally complies with the desired outcomes of Part 1.3.2.3 Waste Management of HDCP, subject to conditions.

3.4.7 Medium Density Housing

Part 3 - Residential Development does not provide for specific controls that apply to the proposed 2 storey seniors housing development. However, Seniors Living is permitted with consent within the R2 zone pursuant to the Housing SEPP which overrides the HLEP, and the Housing SEPP permits seniors living to be in the form of Independent Living Units (ILUs).

The application has been primarily assessed against the Seniors Living Design Guidelines (SLDG) as detailed in Section 3.2.4.3 of this report and is considered acceptable.

However, in the absence of standards prescribed in the SLDG, the application has been assessed against the closest applicable guidelines prescribed in the HDCP, which is Part 3.2 Medium Density. It

is noted that the Part 3.2 medium Density of the HDCP are guidelines only and detailed assessment of these guidelines are provided below:

3.4.7.1 Height

The site is located within the R2 Low Density Residential Zone and therefore the land is mapped as having a maximum building height of 8.5m.

However, as detailed in Section 3.2.4 of this report, the Housing SEPP overrides the HLEP and a maximum height of 9.5m is permitted.

Notwithstanding, it is noted that the proposal generally complies with the 8.5m HLEP height limit for buildings A and B.

It is only Building C that extends beyond the 8.5m height limit, however it still complies with the 9.5m Housing SEPP height limit as the maximum building height would be 9.4m.

Therefore, the development meets the applicable height requirements and is considered acceptable.

3.4.7.2 Setbacks

The desired outcomes of Part 3.2.4 Setbacks of HDCP 2013 are to encourage “*well-articulated building forms that are setback to incorporate landscaping, open space and separation between buildings*” and “*setbacks that preserve and protect existing trees around the perimeter of sites and provide effective deep soil areas that are able to create a garden setting, including substantial tree canopy to all sides of the building*”.

Rear Setback

Pursuant to Part 3.2.4 of HDCP 2013, the minimum rear setback is 6.0m.

The application proposes a rear boundary setback of 6m which generally complies with the 6m prescriptive measure measured to the rear building line for buildings A, B and C.

There are minor encroachments into the 6m rear boundary setback from the first-floor level balconies, however, as discussed in Section 3.4.7.4 of this report which include privacy screens to mitigate privacy impacts.

No objections are raised to the minor encroachment as there would be no adverse impacts to the rear adjoining properties.

Further discussion on sunlight access and overshadowing is discussed in Section 5.1.3 of this report.

Side Setback

The required minimum side setback is 6.0m.

The application originally proposed a 4m side boundary setback; however, this was amended to a 5.7m side boundary setback to better align with Council’s requirements.

In support of the minor 0.3m prescriptive measure the application proposes privacy screens and landscaping trellises to address the privacy impacts to adjoining property No. 19 Barrett Avenue which is considered acceptable as discussed in Section 3.4.7.4 of this report.

The minor encroachment into the side boundary setback is considered to be negligible and it is noted that a two-storey setback could be setback 1.5m from the side boundary. The generous 5.7m setback would allow for appropriate landscaping within the side boundary setback which would further reduce privacy impacts.

Front Setback

The required minimum front boundary setback is 7.6m.

The application proposes a front boundary setback of 7.6m for buildings A, B and C to the Barrett Avenue frontage and 7.8m to the Sinclair Avenue frontage which comply with the front boundary setback.

It should also be noted that a number of elements of the proposal such as garbage storage areas, letterboxes, fire hydrants, substation area located within the front setback which are permitted under Part 3.2.4(g) of the HDCP and have been thoughtfully sited to integrate with landscaping and streetscape character.

The amended proposal generally complies with the desired outcomes of Part 3.2.4 Setbacks of HDCP 2013 and is considered acceptable.

3.4.7.3 Landscaping

The desired outcomes of Part 3.2.6 Landscaping of HDCP 2013 are to encourage “*landscaping that integrates the built form with the locality and enhances the tree canopy*” and “*development that retains existing landscape features such as trees, flora and fauna habitats and urban streams*”.

A landscape plan prepared by Conzept landscape Architects supports the application which proposes extensive landscaping within the subject site.

The proposed landscaping is considered to be an improvement to the subject site noting the number of existing exotic trees that are to be replaced with native trees.

Furthermore, extensive landscaping is proposed within the setbacks to all boundaries to minimise the bulk and scale of the development and mitigate the impacts to adjoining properties.

A condition is recommended to ensure the landscaping is completed prior to the issue of an Occupation Certificate.

The proposal generally complies with the desired outcomes of Part 3.2.6 Landscaping of HDCP 2013 and is considered acceptable.

3.4.7.4 Privacy

The desired outcome of Part 3.2.8 Privacy and Security of HDCP are to ensure “*development designed to provide reasonable privacy to proposed and adjacent properties and high levels of residential security*”.

Council initially raised concerns to the design and the lack of privacy screens to mitigate privacy impacts to adjoining properties. Council also raised concerns to the side boundary setback and the privacy impacts to No. 19 Barrett Avenue.

In response, the applicant provided amended plans which increased the side boundary setback to 4m and provided privacy screens along the rear and sound boundary first floor balconies.

In assessing the proposed privacy screens, it is noted that there are gaps within privacy screens on the southern boundary that would allow overlooking to the rear yard and private open space of the rear adjoining properties along Oakleigh Avenue.

The applicant is relying on existing trees to maintain the privacy from the proposed balconies to mitigate the overlooking impacts to the rear adjoining properties. Relying on existing vegetation is not considered sufficient as trees may die or be removed at a later date.

As a consequence, an amended plans condition is recommended requiring the privacy screens to be extended to the full extent of the southern elevation to mitigate the privacy impacts to the rear adjoining properties to Oakleigh Avenue.

To address the privacy impacts to No. 19 Barrett Avenue the applicant proposes privacy screens along the first-floor level balconies that face the western elevation of Building A.

The proposed privacy screens do not extend the full width of the balcony as this would enclose the balcony and would not provide adequate private open space for the ILUs.

To address this the applicant states that 'Landscape Trellis along boundary', however no details of these trellises have been provided.

Therefore, an appropriate condition is recommended requiring these trellises have a minimum height of 2.4m above existing ground level and have no individual openings more than 30mm wide and have a total of all openings less than 30% of the surface area of the screen.

Subject to these conditions, it is generally considered that the proposed development would have negligible amenity impacts to adjoining priorities in regard to overlooking and privacy impacts.

The development has been designed to have passive surveillance through the positioning of first floor level balconies facing the street elevation and the development has been designed to provide adequate security to its residents. This is further discussed in Section 3.4.3 and 3.7.11 of this report.

Subject to conditions, the amended proposal generally complies with the desired outcome of Part 3.2.8 of HDCP and is considered acceptable, subject to conditions.

3.4.7.5 Sunlight Access

The development complies with Council's requirements for a minimum of 70% of units or ILUs receive more than 2 hours of unobstructed sunlight access as 84% of the ILUs would receive a minimum 2 hours of unobstructed sunlight.

The development would comply with the cross-ventilation requirements of the HDCP.

The proposal generally complies with the desired outcome of Part 3.2.9 Sunlight and Ventilation of the HDCP and is considered acceptable.

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

There are no planning agreements under Section 7.4 of the EP&A Act that are applicable to the proposal.

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

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

- If demolition of a building proposed - provisions of AS 2601

Section 62 (consideration of fire safety) of the 2021 EP&A Regulation is relevant to the proposal.

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

3.7 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:

3.7.1 Context and Setting

While the development may appear to be medium density, it is generally considered that the proposed development is not out of character of the locality due to the existing medium density developments in the vicinity at No. 6-12 Sinclair Avenue, No. 2-6 and No. 8-10 Barrett Avenue and No. 8 Kentwell Avenue.

The development proposes three buildings comprising with flat roofs made up of 16 ILUs each across two levels. Each building has been designed to accommodate disabled people and elderly residents which has attributed to the building design being one consistent level for each building.

As detailed in the body of this report, the development has been designed to maintain appropriate setbacks and appropriate and extensive landscaping has been proposed to mitigate the perceived bulk and scale of the development.

Therefore, it is generally considered that the proposed bulk and scale is acceptable and compatible within the context of the locality.

3.7.2 Access and Traffic

As the development is proposed by a registered Social Housing Provider (Link Wentworth), the application is required to provide a minimum 1 car parking space per 5 ILUs.

The application proposes 12 car parking spaces to service the 48 ILUs and therefore, traffic generation is not considered to be a concern. The application has been designed to allow for vehicles to enter and exit the site in a forward direction.

A Construction Traffic Management Plan is required to be prepared and approved by Council prior to the issue of a construction certificate to demonstrate that any construction vehicles would have minimal impacts to the locality during construction.

3.7.3 Public Domain

The development is considered to be an improvement to the public domain by improving the pedestrian footpath at the front of the site providing pram ramps for pedestrians to cross the road and also upgrading the footpath at the western side of the intersection of Kentwell Avenue and Roach Avenue.

The relocated bus stops would also improve the spacing of bus stops along Duffy Avenue allowing for more residents to assess bus routes.

3.7.4 Utilities

Council's records indicate there is appropriate utilities and services (water, sewer, NBN, Telstra) available at the subject site and appropriate conditions are recommended to ensure appropriate approvals are granted by the relevant authorities for any new connections.

3.7.5 Heritage

The site does not contain a heritage listed item, is no within the vicinity of a heritage listed item and is not located within a heritage conservation area. Therefore, there would be negligible heritage impacts arising from the development.

3.7.6 Other Land Resources

The site is not within a drinking water catchment. There are no mining or quarry operations in the vicinity of the subject site.

3.7.7 Water/ Air/ Soils Impacts

There is no information on Council's record to suggest the presence of any contamination at the site.

It is generally considered that asbestos would be present in some of the buildings to be demolished. Appropriate conditions are recommended to ensure that the demolition of these structures do not contaminate the site and are correctly disposed of.

Whilst there would be disturbance of the site during construction, upon completion of the development, the site would be landscaped with shrubs, turf and trees (the majority of these being native), thus reinstating the microclimatic conditions on site.

Prior to any building works commencing on site, a sedimentation control fence would be erected around any part of the site that is to be disturbed. Such fencing would be erected in accordance with best practice guidelines. Conditions can be applied to manage any potential unexpected finds during work.

3.7.7 Flora and Fauna Impacts

The site is not mapped as containing any Terrestrial Biodiversity, threatened species or areas of high biodiversity significance.

Tree removal is discussed in detailed in Section 3.4.1 of this report and it is noted that sufficient landscaping is proposed to offset the tree removal.

Therefore, no further assessment is required.

3.7.8 Natural Environment

The application proposes the removal of 28 trees as detailed in Section 3.4.1 of this report.

Cut and fill is proposed within the building platforms to provide a levelled building platform that provides adequate disabled access to all required sections of the site. This is discussed in further detail in Section 3.2.1.4 and 3.4.4 of this report.

3.7.9 Noise and Vibration

The application is supported by an Acoustic DA Assessment, prepared by Thermal Environmental, dated 18 December 2025.

The acoustic report addresses the impacts of the anticipated construction noise and the building requirements for the future occupants of the senior's living development.

Council's Environmental Protection Team have assessed the application and provided appropriate conditions including the submission of a Construction Traffic Management Plan to Council for approval prior to the issue of a Construction Certificate to address traffic and construction noise.

Conditions are also recommended to ensure that appropriate acoustic certification is provided to ensure any plant equipment (air conditioning units) do not adversely impact adjoining properties.

3.7.10 Natural Hazards

The site is not affected by any natural hazards such as flooding or bushfire and no further assessment is required.

3.7.11 Safety, Security and Crime Prevention

The principles of Crime Prevention Through Environmental Design (CPTED) have been implemented within the proposed development in accordance with the Department of Planning guideline titled Crime Prevention and the Assessment of Development Applications (2001) as follows:

Principle 1 - Natural Surveillance

As noted in Crime Prevention and the Assessment of Development Applications, good surveillance means that people can see what others are doing. People feel safe in public areas when they can easily see and interact with others. Would-be offenders are often deterred from committing crime in areas with high levels of surveillance. Natural surveillance is achieved through the placement of windows facing Barrett Avenue and Sinclair Avenue. A 1.2-metre-high fences enable occupants of the private open space on the site to be able to view public realm from these areas.

Principle 2 - Access Control

Access controls use physical and symbolic barriers to attract, channel or restrict the movement of pedestrians. Effective access controls make it clear that where people are permitted to go or not go and makes it difficult for potential offenders to reach and victimise people and damage property. The site is separated from the public domain by fencing along the sides and rear of the site.

A condition is recommended requiring an intercom system be implemented within the development to non-residents from entering the building.

Principle 3 - Territorial Reinforcement

Territorial reinforcement refers to the clear identification of public spaces, and the creation of a sense of community ownership over such spaces. People feel comfortable in, and are more likely to visit, places which feel owned and cared for. Well used places also reduce opportunities for crime and increase risk to criminals. Boundary fencing and landscaping would help differentiate public and private areas.

Principle 4 - Space Management

Space management refers to providing attractive, well maintained and well used spaces. As noted in Crime Prevention strategies, space management includes site cleanliness, rapid repair of vandalism and graffiti and the removal of damaged physical elements

The Applicant has addressed CPTED in their CPTED Report prepared by GLN Planning as follows:

- Access control to a secure basement car park
- Separate provided for pedestrians to ensure no conflicts between vehicles and pedestrians.
- Safe parking signage throughout the car park
- Adequate lighting at all entry and exit points would be provided in accordance with the relevant Australian Standard.

- All entry/exit points are aesthetic and inviting and the landscaping, building position and activities are all orientated to maximise natural surveillance on entry/exit.
- The new design of internal spaces does not create 'areas of entrapment or concealment'.
- All entries have good sight lines, are well lit and are in areas with ample room for access
- Clear definition between public and private access areas are created using signage and security doors.
- All external areas of the building are proposed to be well lit, particularly at night.
- No opportunities for concealment are provided by the external building design or landscaping based on the design of the proposal.

In addition to the above, a condition is recommended that an intercom system be installed, security deadlocks be provided to each ILUs door and peep holes be provided to each individual apartment door.

Subject to the above and the recommended conditions, Council is satisfied that the development implements CPTED principles appropriately.

3.7.12 Social Impact

The development would provide low-income seniors with residential accommodation and provide them with a sense of place and community.

3.7.13 Economic Impact

The proposed development would generate jobs during the demolition and construction of the development.

When constructed the development would assist low-income seniors by providing them with residential accommodation.

3.7.14 Site Design and Internal Design

The proposed buildings are located centrally within the site and generally comply with the setback requirements.

Each building is serviced by an internal stairwell and lift to provide accessible access to each floor level of the buildings.

The buildings have been designed to provide adequate solar access and ventilation to all ILUs.

3.7.15 Construction

Construction activities at the site would generate a range of construction and demolition waste across the various stages of demolition and building works. Throughout the development process, where possible, most materials would be reused and recycled, minimising the disposal (landfilling) of materials other than those that are unsuitable for reuse or recycling processes.

Waste storage during construction operations would involve some stockpiling of reusable material, as well as placement of skip bins for the separation of construction materials for recycling. A Preliminary Demolition and Construction Management Plan was submitted in support of the development application.

A comprehensive Demolition and Construction Management Plan (CMP) would be required as a condition of consent. A further condition reinforces the standard hours of construction work.

3.7.16 Cumulative Impacts

The proposal is unlikely to have any cumulative impacts. It is consistent with the planning controls, zoning of the land and the objectives of the R2 Low density residential zone.

Accordingly, it is considered that the proposal would not result in any significant adverse impacts in the locality as outlined above.

3.8 Section 4.15(1)(c) - Suitability of the Site

The proposal is suitable for the locality noting there is existing social housing located within Barrett Avenue. The proposal would improve the transport services and public domain within the locality with the relocated bus stops would service the proposal and existing social housing within the locality and improve the footpath connections.

It is noted there is sufficient open space within the subject site and within the locality at Headen park which is approximately 25m from the subject site.

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

These submissions are considered in Section 4.2 of this report.

3.10 Section 4.15(1)(e) - Public Interest

The development is in the public interest as the proposal will provide additional social housing to seniors within the locality and is generally consistent with the planning controls.

The proposed development would be consistent with the Greater Sydney Region Plan - A Metropolis of Three Cities and the North District Plan, by contributing to achieving the dwelling targets for the region.

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 10.

Table 10: Concurrence and Referrals to Agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
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	Section 2.98(3) - Transport and Infrastructure SEPP	N/A	N/A

Referral/Consultation Agencies			
RFS	S4.14 - EP&A Act Development on bushfire prone land	The site is not bushfire prone land.	N/A
Electricity Supply Authority	Section 2.48 - Transport and Infrastructure SEPP Development near electrical infrastructure	The site does not contain electrical infrastructure	N/A
Rail Authority	Section 2.97 - Transport and Infrastructure SEPP Development land that is in or adjacent to a rail corridor.	The development is not on land that is in or adjacent to a rail corridor.	N/A
Transport for NSW	Section 2.121 - Transport and Infrastructure SEPP Development that is deemed to be traffic generating development in Schedule 3.	The development is not defined as traffic generating development in accordance with Schedule 3 of the SEPP.	N/A
Design Review Panel	CI 145(2) - Housing SEPP Advice of the Design Review Panel ('DRP')	The pre-lodgement meeting plans were reviewed by DRP, and comments were provided. The applicant has acknowledged that seniors housing is not required to be assessed by the DRP in accordance with Clause 6.8 Design Excellence of the HLEP.	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	The site is not bushfire prone land.	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	The site is not within 40m of a watercourse.	N/A

Transport for NSW	S138 - <i>Roads Act 1993</i> Works in the road reserve	The development does not impact a classified road.	N/A
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The development application has been referred to various Council officers for technical review as outlined Table 11.

Table 11: Consideration of Council Referrals

Officer	Comments	Resolved
Development Engineers	Council's Development Engineer reviewed the amended stormwater management plan, civil plans and plan of subdivision and provided conditions of consent.	Y (conditions)
Traffic	Council's Traffic & Road Safety Team reviewed the proposal and provided conditions of consent.	Y (conditions)
Building	Council's Building Certifier reviewed the proposal and provided conditions of consent.	Y (conditions)
Trees	Council's Tree Team reviewed the application and provided conditions of consent for the removal of 28 trees and tree protection measures for retention of the remaining trees on site.	Y (conditions)
Environmental Protection	Council's Environmental Protection Officer reviewed the application and requested additional information to address site contamination and acoustics.	Y (conditions)
Waste Team	Council's Waste Management Officer reviewed the application and provided conditions of consent.	Y (conditions)

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


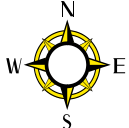
4.2 Community Consultation

The proposal was notified in accordance with the Council's Community Engagement Plan from 26 April 2025 until 10 May 2025. The notification included the following:

- Notification on the Council's website
- A sign placed on the site
- Notification letters sent to adjoining and adjacent properties (40 letters sent)



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X SUBMISSIONS RECEIVED		PROPERTY SUBJECT OF DEVELOPMENT	
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The Council received a total of 3 unique submissions, comprising 3 objections and nil submissions in favour of the proposal. The issues raised in these submissions are considered in Table 12.

Table 12: Community Submissions

Issue	No. of submissions	Council Comments
Overshadowing	2	Discussed in Section 5.1.3 of this report.
Privacy impacts to adjoining properties	2	As discussed in Section 3.4.7.4 of this report, the proposed development is considered acceptable, subject to conditions in regard to privacy impacts to adjoining properties.

No community consultation from application	1	This is no requirement for the applicant to complete any community consultation prior to lodging a DA with Council. In accordance with the Hornsby Community Engagement Plan, the application was notified to adjoining properties as identified in the map above.
Excessive tree removal	1	The submission objected to the removal of all trees on the site. As discussed in Section 3.4.1 of this report, the removal of 29 trees on within the subject site was supported due to the low landscape significance of these trees and their location within the subject site not allowing them to be retained. The application proposes extensive landscaping within the subject site to offset the removal of the trees to be removed.
Excessive Fill	1	As discussed in Sections 3.2.1.4 and 3.4.4 of this report, the proposed earthworks are considered acceptable.
Excessive bulk and scale	1	Refer to Section 5.1.4 of this report.
Inadequate rear setback	1	As discussed in Section 3.4.7.2 of this report, the proposed rear boundary setback is considered acceptable.
Inadequate access to services	1	As detailed in Section 3.2.4.2 of this report, the Local traffic Committee has approved the relocation of the bus stops. To ensure the development meets the suitable access path requirements appropriate conditions are recommended to ensure the bus stops are within 400m of the subject site and serviced by a suitable access path.
Side setback - the submission stated that the side setback would be 0.4m.	1	The proposed side boundary setback is 6m which is considered acceptable as discussed in Section 3.4.7.2 of this report.
Noise and dust during construction	1	As discussed in Section 3.7.15 of this report a Construction Traffic Management Plan is required to be submitted to Council prior to the issue of a Construction Certificate to ensure adequate noise and dust mitigations are in place to ensure the development does not unreasonably impact the locality during demolition and construction.
Land subsidence during construction	1	The proposed buildings are setback a minim 6m from any property boundary and minimal excavation is proposed as part of this application. It is generally considered that the excavation would not impact adjoining properties.

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:

5.1.1 Bus Stop relocation

Submissions have been received stating that the bus stop relocation should not be approved as this requires separate approval outside the DA process and the relocated bus stop locations would create safety hazards through limited sight lines.

In response to this objection, it is noted that the application to relocate the bus stops was assessed by the Hornsby Local Traffic Committee (LTC) which is made up of Hornsby Council's Traffic Team, Transport for New South Wales and the CDC Bus Company. The LTC is the consent authority to relocated bus stops.

The LTC resolved to support LTC 17/25 to relocate the bus stops as this was seen as a better outcome to provide a more efficient spacing between existing bus stops that would service more of the community.

The LTC did assess if the relocated bus stops would create any safety hazards and were satisfied that the new bus stop locations would not create additional safety concerns.

Appropriate conditions are recommended to ensure the applicant must relocate the bus stops and liaise with the bus company to ensure the bus stops are relocated prior to the issue of an Occupation Certificate.

5.1.2 Floor Space Ratio

As detailed in Section 3.2.1.3 of this report, the proposed FSR variation is considered acceptable.

5.1.3 Sunlight Access to adjoining priorities

Submissions have been received raising concern to the overshadowing impacts of the proposed development specifically to the rear adjoining properties to Oakleigh Avenue.

Council requested further information from the applicant to address this concern either by way of amended plans or further clarification on the sunlight access impacts to the rear adjoining properties, specifically No. 30A Oakleigh Avenue.

The applicant provided further shadow diagrams to detail the existing shadow impacts from the boundary fence, noting that the land of No. 30A Oakleigh Avenue is approximately 1m lower than the existing ground level of the subject site.

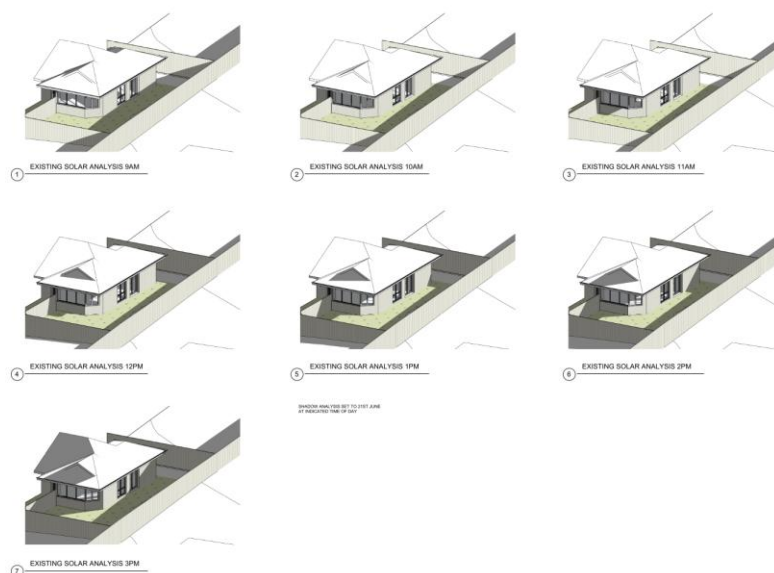


Figure 7: Existing Shadow Diagrams to 30A Oakleigh Avenue (Source: Place Studio)

The applicant also provided the shadow diagrams from the proposed development as shown below:

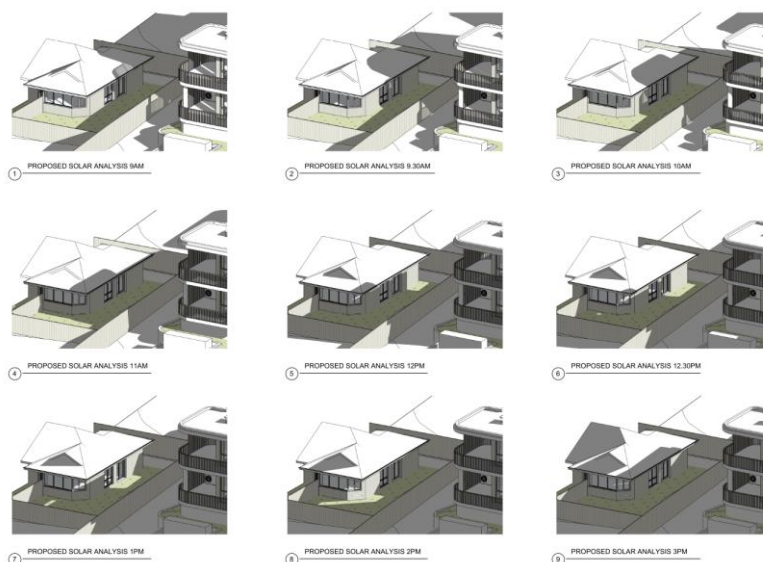


Figure 8: Proposed Shadow Diagrams to 30A Oakleigh Avenue (Source: Place Studio)

As detailed in the shadow diagrams detailed above, the existing site conditions impact the sunlight access to No. 30A Oakleigh Avenue from the shadows cast by the existing boundary fencing that adjoins the subject site.

While there are no specific controls for sunlight access to adjoining properties in Part 3.2.9 Sunlight and Ventilation of the HDCP (medium density), there are prescriptive measures detailed in Part 3.1.5 Sunlight Access of the HDCP (Low density). As No. 30A Oakleigh Avenue contains a dwelling house which would be assessed against Part 3.1.5 Sunlight Access of the HDCP, these requirements have been applied to this application in assessing the sunlight access to adjoining properties as follows:

The desired outcomes of Part 3.1.5 Sunlight Access of the HDCP are to encourage “*dwelling houses designed to provide solar access to open space areas*” and “*development designed to provide reasonable sunlight to adjacent properties*”.

This is supported by the prescriptive measure 3.1.5(b) requiring “*50 per cent of the principal private open space on any adjoining property to receive at least 3 hours of unobstructed sunlight access between 9am and 3pm.*”

When assessing the impacts to No. 30A Oakleigh Avenue, it is noted that the private open space for this property is located within the grassed section of the rear yard.

The shadow diagrams depict that No. 30A Oakleigh Avenue would still receive a minimum 2.5 hours of unobstructed sunlight to a minim 50% of their private open space. While this does strictly comply with the minimum 3 hours of sunlight, it is noted that the shadows cast by the existing boundary fence are similar to the shadows cast to the proposed development.

The submissions state that a rear boundary setback of 8m would result in a better sunlight access to No. 30A Oakleigh Avenue, however, a review of the shadow diagrams confirmed that an increased setback to 8m would have negligible changes to the shadow diagrams proposed.

It is further noted that the shadow diagrams depict sunlight access during the winter season where the sun is lowest in the sky and a higher degree of overshadowing would result.

During the other seasonal cycles of the year, a higher degree of sunlight access would be achieved in comparison to what is depicted on the shadow diagrams.

The rear adjoining properties to the subject site would still receive a minim 3 hours of unobstructed sunlight access as detailed in the submitted shadow diagrams as shown below:



Figure 9: Proposed Shadow Diagrams for the subject site (Source: Place Studio)

The proposal meets the desired outcomes of Part 3.1.5 Sunlight Access of the HDCP and is considered acceptable.

5.1.4 Bulk and Scale

Submissions have been received which objected to the bulk and scale of the proposed development.

As detailed in the body of this report, the applicable building height is 9.5m and the applicable Floor Space Ratio is 0.5:1.

The development proposes a building height of 9.4m which complies with the 9.5m building height.

The application proposes an FSR of 0.57:1 which does not comply with the 0.5:1 FSR requirement, however as detailed in Section 3.2.1.3 the clause 4.6 to vary the FSR development standard is considered acceptable.

The development proposes three buildings comprising with flat roofs made up of 16 ILUs each across two levels. Each building has been designed to accommodate disabled people and elderly residents which has attributed to the building design being one consistent level for each building.

While the development may appear to be medium density, it is generally considered that the proposed development is not out of character of the locality due to the existing medium density developments in the vicinity at No. 6-12 Sinclair Avenue, No. 2-6 and No. 8-10 Barrett Avenue and No. 8 Kentwell Avenue.

As detailed in the body of this report, the development has been designed to maintain appropriate setbacks and appropriate and extensive landscaping has been proposed to mitigate the perceived bulk and scale of the development.

Therefore, it is generally considered that the proposed bulk and scale is acceptable and compatible within the context of the locality.

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 can be supported.

It is considered that the key issues as outlined in Section 5 have been resolved satisfactorily through amendments to the proposal and/ or in the recommended draft conditions at Attachment A.

7. RECOMMENDATION

- A. THAT the Sydney North Planning Panel, exercising the functions of Council as the consent authority, contravene Section 108(2)(c) Non-Discretionary Floor Space Ratio development standard of State Environmental Planning Policy (Housing) 2021 pursuant to Clause 4.6 of the Hornsby Local Environmental Plan 2013 as it is satisfied that the applicant has demonstrated that the provisions of Clause 4.6(3)(a) and (b) have been met.
- B. THAT the Sydney North Planning Panel, exercising the functions of Council as the consent authority, approve Development Application No. DA/254/2025 for the demolition of structures, Torrens title subdivision of eight lots into two and construction of three buildings comprising of 48 Independent Living Units for Seniors Living at Lots 3, 4, 5, 6, 7, 8, 9 and 10 DP 35569, Nos. 1-11 and 15-17 Barrett Avenue, Thornleigh subject to the conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of consent
- Attachment B: Approval from the Crown (applicant) for imposition of Conditions
- Attachment C: Architectural Plans
- Attachment D: Clause 4.6 Request