

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSWC-126
DA Number	DA19/0419.03 - PAN-54946
LGA	Penrith City Council
Proposed Development	Alterations associated with a Court approved residential aged care facility - Removal of 4 trees and replacement tree planting
Street Address	5- Floribunda Avenue, Glenmore Park
Applicant/Owner	Principal Healthcare Finance Pty Ltd
Date of DA lodgement	11.12.2020
Number of Submissions	No submissions
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Original development with a Capital Investment Value (CIV) greater than \$30 million (\$36,288,579.77)
List of all relevant s4.15(1)(a) matters	Environmental Planning Instruments (EPI) <ul style="list-style-type: none"> Penrith Local Environmental Plan 2010 Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No. 2 – 1997) State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 State Environmental Planning Policy No. 55 - Remediation of land State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 State Environmental Planning Policy (State and Regional Development) 2011 Statutory Instruments <ul style="list-style-type: none"> Environmental Planning and Assessment Regulation 2000 Draft EPIs <ul style="list-style-type: none"> Draft Environmental State Environmental Planning Policy Draft Remediation of Land State Environmental Planning Policy Development Control Plan <ul style="list-style-type: none"> Penrith Development Control Plan 2014
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> Appendix A – Applicant's Statement of Environmental Effects Appendix B – Updated Tree Removal and Retention Plan Appendix C – RFS Bush Fire Safety Authority Appendix D – Landscape Plans – Taylor Brammer Appendix E – Applicant's Section 34 Agreement Document
Clause 4.6 requests	Nil
Summary of key submissions	Nil
Report prepared by	Kathryn Saunders – Senior Development Assessment Planner
Report date	11 February 2021

Summary of s4.15 matters

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

Yes

Legislative clauses requiring consent authority satisfaction

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

Yes

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

Clause 4.6 Exceptions to development standards

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

Not Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Not Applicable

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

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

SWCPP Ref. No.:	PPSSWC-126
DA No.:	DA19/0419.03
PROPOSED DEVELOPMENT:	Section 4.56 Modification to Amend Approved Residential Aged Care Facility - Removal of Four Trees & Retention of One Tree - Lot 1 DP 825553,5 - 7 Floribunda Avenue, GLENMORE PARK NSW 2745
APPLICANT:	Principal Healthcare Finance Pty Ltd
REPORT BY:	Kathryn Saunders, Senior Development Assessment Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a Section 4.56 modification application related to a Court issued consent which approved the demolition of existing structures and the construction of a residential aged care facility at 5-7 Floribunda Avenue, Glenmore Park. Approval was granted to application no DA19/0419 by the Land and Environment Court of NSW by way of a Section 34 Agreement on 19 May 2020 (Penrith City Council ats Principal Healthcare Finance Pty Limited - LEC No. 2019/321826).

This Section 4.56 modification application seeks approval for additional tree removal to facilitate the development of an approved residential aged care facility and includes the following:

- the removal of tree numbered T1, a Chinese Elm (*Ulmus parvifolia*). This tree was inaccurately located on the original tree survey and is in the location of an approved balcony,
- the removal of tree numbered T11a, an Illawarra flame tree (*Brachychiton acerifolius*). Works in the vicinity of this tree and the approved level differences and proposed overland floor paths, are said to prevent the retention of the tree without root impacts.

The reasoning provided as to the additional tree removal is related to a refinement of the tree survey resulting in the discovery of inaccuracies in the location of originally surveyed trees, resulting in conflict with the approved built form.

The trees proposed for removal were inspected and a site walkover was undertaken with the builder, the site operator and Council's tree and planning officers. There were no objections raised to the proposal for additional tree removal raised by Council's Tree Officer.

It was noted during the site inspection that a mature gum tree known as T17, which was approved for retention was dead and that tree marked T48, a *Ligustrum sp.* also known as Privet, was able to be removed as the species was not supported for retention. It was also noted that a mature gum tree known as tree T19, which was approved for removal, could now be retained and protected, although as construction works in the vicinity of the tree were not complete, although the intention is to retain the tree, the applicant is not proposing to include the retention of this tree in the modification application.

The applicant has amended the modification application to reflect the above additional trees for removal being tree T17 and tree T48. In total, four trees are to be removed comprising of one pest species, one dead tree and two trees which are impacted by the approved built form. No objections to these amendments are raised by Council, subject to a recommended condition requiring the replacement planting of four additional trees.

Whilst at the site, concerns were raised by Council's Tree Officer in relation to inadequate tree protection methods being in place for other trees on the site marked for retention. This matter is being followed up separately and the site operator has proactively engaged a site arborist to assist in protecting trees and installing tree protection zones.

Under Penrith Local Environmental Plan 2010 (PLEP), the proposal is defined as development ancillary to an approved residential care facility and is permissible in the R2 Low Density Residential zone under PLEP with consent. The proposal is also permissible under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Clause 120 of the Regulations requires that as soon as practicable after receiving an application for the modification of a development consent, a consent authority must cause a copy of the application to be given to each concurrence authority and approval body for the development to which the application relates. A copy of the modification application was provided to the Rural Fire Service (RFS) via the NSW Government's ePlanning Portal (CNR-17072). The RFS were a concurrence authority to the original application. The RFS have confirmed in correspondence received 5 February 2021, that no objection is raised. General Terms of Approval issued under DA19/0419 (as amended) dated 17/08/2020 will remain applicable. A Bush Fire Safety Authority has been issued, RFS Reference DA-2019-02464-S4.55-(none), dated 5 February 2021.

The application has been notified to each person who made a submission in respect of the relevant development application of the proposed modification (being the subject of a Class 1 Appeal to the NSW Land and Environment Court) in accordance with the requirements of Section 4.56(1)(c) of the Environmental Planning and Assessment Act 1979, with the exhibition period being between 25 January and 9 February 2021. No submissions were received.

This application is to be determined by the Sydney Western City Planning Panel as the cost of works of 'the development' has a Capital Investment Value of greater than \$30 million, being \$39,917,436.

An assessment under Section 4.15 and Section 4.56 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval subject to the recommended condition amendments listed at the end of this report.

Site & Surrounds

The subject site is approximately 10,000sqm's in area and was previously occupied by a privately operated facility, in the form of a homestead, for the care and education of children. The site is sloped to the rear and has a fall of approximately 6.5m and has vehicular and pedestrian access from Floribunda Avenue via two driveway crossings. The Council owned Floribunda Community Centre adjoins the site to the north. Rotary Park and Glenmore Loch are located to the site's immediate east. The site shares its southern most boundary with the rear yards of five dwelling houses which front Freesia Place to the south.

Single residential dwellings are located opposite the subject site, on the western side of Floribunda Avenue. The Glenmore Park Town Centre is located approximately 600 metres to the south of the site.

The surrounding land uses are comprised of parklands, a community centre and low density residential dwellings consisting of 1-2 storey single dwelling houses.

Court issued consent no. DA18/0419 approved the demolition of all existing structures and the construction of a part 1, part 2 storey residential aged care facility on the site. The consent approved a mixture of surface and undercroft car parking and extensive landscaping including some tree removal and replacement tree planting and required some select vegetation retention. As part of the approved development various stormwater works were approved, and Council gave its consent as the land owner of the site to the rear, to allow for the construction of stormwater drainage and the creation of a related easement.

The court issued consent has recently been amended through the lodgment of two Section 4.56 modification applications (DA19/0419.01 and .02) which were each determined by the Sydney Western City Planning Panel. The modification applications related to a request to alter the timing of the registering of an easement over Council's land through a change to the working of a consent condition and the addition of several upper level balconies for residents, and related architectural amendments.

Council records also indicate that legal action has been undertaken in relation to unauthorised works at the site which include tree removal. It is noted that the matter is resolved.

Proposal

Modification application

This Section 4.56 modification application seeks approval for tree removal to facilitate the development of an approved residential aged care facility and includes the following:

- the removal of tree numbered T1, a Chinese Elm (*Ulmus parvifolia*).
- the removal of tree numbered T11a, an Illawarra flame tree (*Brachychiton acerifolius*).

The reasoning provided by the applicant as to the tree removal is related to the applicant refining their tree survey and construction works. This refinement resulted in the discovery of inaccuracies in the location of originally surveyed trees, resulting in conflict with the approved built form. Tree T1 was inaccurately located on the original tree survey plan and is in the location of an approved balcony. Tree T11a is proposed to be removed, as approved building works are located in close vicinity to this tree and the level differences are said to prevent the retention of the tree without detrimentally impacting root zones.

The trees proposed for removal were inspected and a site walkover was undertaken with the builder, the site operator and Council's tree officer. There were no objections raised to the proposal for additional tree removal.

Amended works proposed

It was noted during a site inspection that a mature gum tree known as T17, which was approved for retention was dead and that tree marked T48, a *Ligustrum sp.* was able to be removed as the species was not supported for retention.

The applicant has submitted a written request to amend this modification application to reflect the above additional two trees for removal. Additionally, the applicant has stated that they will monitor tree number T19 (which is currently approved for removal) and that the operator of the site may retain it, although no changes are sought in relation to tree T19, at this stage.

Related matter

Whilst at the site concerns were raised by Council's Tree Officer in relation to inadequate tree protection methods being in place for other trees on the site marked for retention. This is being followed up as a separate matter and the site operator has proactively engaged an arborist to assist in protecting trees.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Vegetation in non-rural areas) 2017
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• **Section 2.12 – Sydney Western City Planning Panel (SWCPP)**

The application has been assessed in accordance with Section 2.12 of the Environmental Planning and Assessment Act 1979 and the application will be determined by the Sydney Western City Planning Panel as the approved development (as is proposed to be modified) has a Capital Investment Value (CIV) greater than

\$30 million.

- **Section 4.14 - Bushfire prone land assessment**

The modification application is acceptable having regard to the Regulations. The NSW RFS has issued a Bush Fire Safety Authority and their General Terms of Approval. The original application was submitted with a Bush Fire Report which was deemed satisfactory.

- **Section 4.15 - Evaluation**

The modified development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 (the Act) as is provided within this report.

- **Section 4.56 - Modification by consent authorities of consents granted by the Court**

The application is lodged under Section 4.56 of the Environmental Planning and Assessment Act 1979 (the Act). Section 4.56 *Modification by consent authorities of consents granted by the Court*, states at 4.56(1) that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if -

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

(b) it has notified the application in accordance with—

(i) the regulations, if the regulations so require, and

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

With regard to the above at (a), (b) and (c), Council is satisfied that the development to which the consent as modified relates is substantially the same development for which consent was originally granted. The proposal to remove three additional trees and retain one tree, which was previously proposed for removal does not significantly alter the development to which consent was originally granted, and would not impact the reasoning provided to the grant of consent under DA19/0419.

The proposal is considered to be minor in environmental impact and does not materially change the development as was approved.

Further, the application has been notified in accordance with the requirements of the Regulations and in accordance with Council's community participation and notification policy. Additionally, the application has been notified to each person who made a submission in respect of the original development application. No submissions were received in response to the notification and exhibition of the application.

Section 4.56(1A)

Section 4.56(1A) of the Act states that in determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in Section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

This report includes an assessment of the matters outlined in Section 4.15(1). The reasons given by the consent authority for the grant of the consent that is sought to be modified, are detailed below and are considered on assessment, to be satisfied.

DA19/0419 - Reasons for the grant of consent - Section 34 Agreement

Refer to attached Court documents including Section 34 Agreement Between the Parties.

Section 4.56(2)

Section 4.56(2) requires that after determining an application for modification of a consent under this section, the consent authority must send a notice of its determination to each person who made a submission in respect of the application for modification. No submissions were received and as such no notification is required.

In accordance with the above, the modification application is considered satisfactory having regard to the matters detailed under Section 4.56 of the Act and the modification is supported.

Section 4.15(1)(a)(i) The provisions of any environmental planning instrument

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

An assessment has been undertaken of the application against relevant criteria under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, and the modification application is considered to be satisfactory, subject to the amended conditions of consent.

The proposal to remove four additional trees, is assessed as being acceptable when assessed against the Aims of Policy expressed at Clause 2, and the general matters for consideration under Part 1 of the Policy, which include that housing is to be *designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age.*

The design of the residential aged care facility is unaltered and has previously been assessed as being acceptable having regard to the Design principles at Part 3, Division 2. Further, the proposed amendments do not propose to alter the approved height, density or scale, landscaped area or parking numbers and will not result in any increase in residents, staff or visitors.

A conditions is recommended in relation to replacement tree planting.

State Environmental Planning Policy (State and Regional Development) 2011

In accordance with Section 2.12 of the Environmental Planning and Assessment Act 1979, the Sydney Western City Planning Panel (SWCPP) was identified as the determining authority for the original application. The approved development was identified as being regionally significant development under the provisions of State Environmental Planning Policy (State and Regional Development) 2011 being either a community facility with a capital investment value in excess of \$5 million or other general development with a capital investment value in excess of \$30 million (noting that the development includes residential aged care housing as well as an allied health facility component).

The modification to the development, which is sought under Section 4.56 of the Act is identified as being regionally significant development and the consent authority for the application is the Sydney Western City Planning Panel.

State Environmental Planning Policy (Vegetation in non-rural areas) 2017

An assessment has been undertaken of the application against State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 and the application is satisfactory, subject to the existing conditions of consent under DA19/0419, as modified, noting the recommended amendments to the list of approved plans, and the condition amendment resulting in the requirement for replacement tree planting.

State Environmental Planning Policy No 55—Remediation of Land

The modifications proposed do not raise any matters which require further consideration of land contamination or remediation under the Policy, in addition to those matters considered as part of the approval of the original proposal. The modified proposal is considered satisfactory, having regard to the Policy.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria within Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997) and is found to be compliant with the general planning considerations of the Policy.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 7.1 Earthworks	Complies
Clause 7.4 Sustainable development	Complies
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies

Section 4.15(1)(a)(ii) The provisions of any draft environmental planning instrument

Draft Environment State Environmental Planning Policy

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

Changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

The proposed modification to the original court issued consent, is not inconsistent with the provisions of this Draft Instrument.

Draft Remediation of Land State Environmental Planning Policy (SEPP 55)

The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No. 55—Remediation of Land.

The main changes proposed include the expansion of categories of remediation work which requires development consent, a greater involvement of principal certifying authorities particularly in relation to remediation works that can be carried out without development consent, more comprehensive guidelines for Councils and certifiers and the clarification of the contamination information to be included on Section 10.7 Planning Certificates.

Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land. The Draft SEPP will not alter or affect the findings in respect to contamination of the site.

The proposed modification to the court issued consent, is not inconsistent with the provisions of this Draft Instrument.

Draft Amendments to Penrith LEP 2010

The current draft amendments to the Penrith LEP do not impact the subject application.

Section 4.15(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	N/A
C2 Vegetation Management	Complies
C3 Water Management	N/A
C4 Land Management	N/A
C5 Waste Management	N/A
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	N/A
C11 Subdivision	N/A
C12 Noise and Vibration	N/A
C13 Infrastructure and Services	N/A
D2.1 Single Dwellings	N/A
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	N/A
D2.5 Residential Flat Buildings	N/A
D2.6 Non Residential Developments	Complies
D3.1. Bulky Good Retailing	N/A
D3.2. Sex Services Premises	N/A
D3.3. Restricted Premises	N/A

Section 4.15(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements in place that apply to the subject modification application.

Section 4.15(1)(a)(iv) The provisions of the regulations

The modified proposal under Section 4.56 of the Act has been assessed against the relevant sections of the Regulations and is compliant.

Clause 117 of the Regulations applies to an application under Section 4.55(1A) of the Act or under Section 4.56 of the Act in respect of a modification which, in the opinion of the consent authority, is of minimal environmental impact. Clause 117(2) states that if an application to which this clause applies is required by a community participation plan to be notified or advertised and the development consent was granted by the Court on appeal, the application must be so notified or advertised by the consent authority to which the original development application was made.

Clause 117(3) requires, for such applications, that the consent authority is to notify the Court of -

- (a) the manner in which the application was notified or advertised,*
- (b) any submission period required by the community participation plan, and*
- (c) the date (or dates) on which the application was notified or advertised.*

As Council's Development Control Plan does not require notification or advertisement of the Section 4.56 modification application, Council is not required to notify the Court of the matters referred to above, noting that the Act requires under 4.56(1)(c), that the application be notified to persons who have made submissions to the original application. This notification was carried out, with the exhibition period being between 25 January and 9 February 2021, and the application documentation was made available on Council's DA Tracker, with no submissions received.

Clause 120 of the Regulations requires that an application for the modification of a development consent, is to be provided to each concurrence authority and approval body for the development to which the application relates. A copy of the modification application was provided to the Rural Fire Service, who were a concurrence authority to the original application and no objections were raised, a Bush Fire Safety Authority has been issued.

Section 4.15(1)(b) The likely impacts of the development

The proposed tree removal will not materially alter the development which has been approved by the Court, and will not result in any significant environmental impacts. The likely impacts resulting from the modified proposal are mitigated by the replacement tree planting and the overall landscaping of the site approved under DA19/0419.

Section 4.15(1)(c) The suitability of the site for the development

The site is assessed as suitable for the proposed modification to the approved development. Four trees are proposed for removal; two trees which were surveyed incorrectly and as a result require removal to facilitate the approved development envelope; a third tree which has died since construction began (and not as a result of construction); and a fourth tree which was identified during the site inspection as being an invasive species (Privet) and is suitable for removal.

The impacts of tree removal and replacement are not considered to be detrimental to the amenity and outlook of nearby neighbours and will not detrimentally impact on the outlook or amenity of future residents of the development, and in this respect the proposal can be supported. Tree replacement conditions are recommended.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with the requirements of the Regulations and Council's Community Engagement Strategy and Community Participation Plan, the modified development was notified to those who had previously registered a submission against the original application and to nearby and adjoining residents, with the exhibition period being between 25 January and 9 February 2021. No submissions were received in response.

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Tree Management Officer	No objections - subject to conditions

Tree Management Officer

The application was discussed with Council's tree officer with no objections raised.

Section 4.15(1)(e)The public interest

The proposed modification to the approved tree retention and removal plan for the approved residential aged care facility will not generate any issues which would be contrary to public interest, subject to the recommended conditions.

Conclusion

This Section 4.56 modification application has been assessed against the matters for consideration under Section 4.56 and Section 4.15 of the Environmental Planning and Assessment Act 1979, is found to be acceptable and is not in conflict with the public interest.

The proposal is also found to be substantially the same development as that which the Land and Environment Court of NSW approved by way of a Section 34 Agreement on 19 May 2020 (Penrith City Council ats Principal Healthcare Finance Pty Ltd - LEC No. 2019/321826) and in this respect, can be considered under Section 4.56 and is assessed to be minor in nature.

The proposed alterations, being the additional removal of four trees and the retention of one tree which was previously approved for removal, will not result in any unacceptable impacts on residential amenity and will not impact the reasons as to which consent was granted in the first instance.

The modified proposal is not in conflict with any environmental planning instruments or draft environmental planning instruments and is suitable for the site. The Section 4.56 modification application is recommended for approval, subject to the recommended conditions at the end of this report.

Recommendation

1. That the modification application received under Section 4.56 of the *Environmental Planning and Assessment Act 1979*, for the removal of an additional four trees and the retention of one tree (previously approved for removal), related to the construction of an approved residential aged care facility, be approved subject to the following condition amendments; and
2. That the Rural Fire Service be notified of the determination.

CONDITIONS

General

- 1 The development must be consistent with the plans and other documentation as provided by the NSW Land and Environment Court, as are Annexed to the Court Judgement of Appeal No. 2019/321826 as amended, and as further amended by the below listed and stamped approved plans.

Plan/Report No.	Description	Prepared by	Revision	Date
LT101	Tree Retention & Removal Plan	Taylor Brammer	3	11.02.2021

- 2 **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority (PCA) is to ensure that, in addition to the landscaping and tree planting approved as part of the NSW Land and Environment Court issued consent no. DA19/0419 (as amended), four additional native trees are to be planted on the site.

The four additional trees to be planted are to be native species and of a species that will reach a mature height of no less than 6m. Trees are to be a minimum 100L at the time of planting and are to be in good health and vigor at the time of inspection by the PCA. One of the trees is to be a lemon scented gum, grey gum or spotted gum, and is to be planted in the general location of tree number T17 which was approved for removal (refer to stamped approved Tree removal and retention plan, prepared by Taylor Brammer, dated 11.02.2021, drawing number LT101, revision 3).

The required trees are to be planted in accordance with the landscaping technical specifications outlined in Section 2.2.9 of Part F, Appendix F4 Technical Information of Council's Development Control Plan 2014.