

3 DA/1244/2021 - SENIORS LIVING DEVELOPMENT COMPRISING 30 SELF-CONTAINED DWELLINGS - 15B, 17, 19, 19A & 21 PENRHYN AVENUE, BEECROFT AND 579 PENNANT HILLS ROAD, WEST PENNANT HILLS

EXECUTIVE SUMMARY

- DA No:** DA/1244/2021 (Lodged on 18 November 2021)
- Description:** Demolition of existing structures, construction of a Seniors living development comprising 30 self-contained dwellings, associated civil/site works, landscape works and lot consolidation
- Property:** Lots 146, 148, 149, DP 1212765, Lot 1, 2, DP 1261337 & Lot 51, DP 1212724 - Nos. 15B, 17, 19, 19A & 21 Penrhyn Avenue, Beecroft and No. 579 Pennant Hills Road, West Pennant Hills
- Applicant:** Mr Peter William Brooks
- Owner:** Mr Kenneth Bruce McLennan, Mrs Janet Madge McLennan, Mr Maheswaran Viswanathan, P Sandhu Pty Ltd, Mr Rajan Nagendra Boora, Miss Nirmala Fernandes & Mr Seung Taeg Baeg
- Estimated Value:** \$14,695,651
- Ward:** C Ward
- The proposal generally complies with the Hornsby Local Environmental Plan 2013, the Hornsby Development Control Plan 2013 and State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 with respect to landscaping, privacy, noise, traffic and safety, scale, site suitability, contamination, setbacks, tree preservation, sunlight access, stormwater and waste management.
 - A total of 80 submissions over two notification periods have been received in respect of the application.
 - The application is required to be determined by the Hornsby Council Local Planning Panel as 10 or more unique submissions were received by way of objection.

RECOMMENDATION

THAT Development Application No. DA/1244/2021 for demolition of existing structures, construction of a Seniors living development comprising 30 self-contained dwellings, associated civil/site works, landscape works and lot consolidation at Nos. 15B, 17, 19, 19A & 21 Penrhyn Avenue, Beecroft and 579 Pennant Hills Road, West Pennant Hills be approved, subject to the conditions of consent detailed in Schedule 1 of LPP Report No. LPP61/22.

BACKGROUND

On 16 December 2021, the proposal was reviewed by Council's Design Excellence Panel (DEP).

On 15 February 2022, Council requested additional information to address the DEP advice and matters relating to stormwater, driveway and carparking design, traffic, noise and waste management.

On 9 May 2022, a full set of amended plans were submitted to Council for consideration.

On 1 June 2022, a second DEP meeting was undertaken to discuss the additional information and amended plans submitted, a number of the initial concerns raised by DEP still remained outstanding at this time.

Council provided the Applicant with a second opportunity to amend the plans, specifically noting that consideration should be given to reducing the number of dwellings to reduce the scale of the development and address a number of the DEP concerns.

On 9 July 2022, amended plans reducing the number of dwellings from 33 to 31 were submitted.

On 6 September 2022, Council undertook a meeting with the Applicant to discuss outstanding concerns in relation to the development. A follow up letter was sent on 7 September 2022 requesting amendments with respect to design details, a conflict with landscaping and the overland flow path on the site, building details to meet BCA requirements and some additional waste management matters that were required to be addressed.

On 27 October 2022, upon further review, Council requested additional information relating to outstanding concerns associated with the front setback to the cul-de-sac, streetscape impact of the development and amenity impacts associated with Unit 4. In addition, further matters with regard to waste management were also required to be addressed.

On 7 November 2022, amended plans deleting Unit 4, addressing the above concerns were submitted for consideration. As a result, the overall number of dwellings was reduced from 31 to 30 and additional landscaping is proposed within the front setback of the site.

SITE

The 7,907.6m² site comprises 6 allotments and is located on the southern side of Penrhyn Ave, Beecroft within a cul-de-sac and on the eastern side of Pennant Hills Road via a battle-axe lot.

Five of the existing lots contain dwelling houses.

The site experiences a 17m fall to the south-eastern, rear corner of the site.

The site is flood prone and contains a 2.44m wide easement to drain water/ restriction on the use of land which dissects diagonally through the north-eastern corner of the site, specifically within No. 17 Penrhyn Ave. No. 19A Penrhyn Ave also contains a 1.5m wide drainage easement along the eastern side boundary.

The site is not bushfire prone.

The property is located in close proximity to Blue Gum High Forest vegetation which is listed as critically endangered under the *Commonwealth Environmental Protection and Biodiversity Conservation Act 1999* and the *NSW Biodiversity Conservation Act 2016*.

PROPOSAL

The proposed development comprises the demolition of 5 existing dwellings and the construction of 30 self-contained Seniors living dwellings. The application also proposes the consolidation of the 6 lots, associated civil/ site works and landscape works.

The complex would consist of a wide range of housing styles, including:

- 11x 1 and 2-storey detached and attached dwellings.
- 9x 2-storey townhouse-style dwellings.
- 10x apartments.

All dwellings would be 3 bedrooms.

The reduction in apartment numbers aims to create a larger village green space in the centre of the site, increase the separation distances between the proposed dwellings and reduce the bulk and scale of the development.

The existing overland flow path on the site has been utilised for the provision of communal open space and to provide a buffer between residential developments to the east of the site. Additional communal open space is proposed within the centre of the site to improve overall amenity and provide suitable landscaping.

Sixty-two off-street car parking spaces are proposed, including 7 visitors spaces, all with vehicular access via Penrhyn Ave.

The accessway to Pennant Hills Road is to be used to provide convenient and safe pedestrian access to the complex only and provides access to bus stops for services which link Pennant Hills to Parramatta and intervening centres, with easy access to local services and amenities.

A total of 146 trees would be impacted by the development, 100 of which would be removed.

ASSESSMENT

The development application has been assessed having regard to the Greater Sydney Region Plan - A Metropolis of Three Cities, the North District Plan and the matters for consideration prescribed under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act). The following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Greater Sydney Region Plan - A Metropolis of Three Cities and North District Plan

The Greater Sydney Region Plan - A Metropolis of Three Cities has been prepared by the NSW State Government to guide land use planning decisions for the next 40 years (to 2056). The Plan sets a strategy and actions for accommodating Sydney's future population growth and identifies dwelling targets to ensure supply meets demand. The Plan also identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

The NSW Government will use the subregional planning process to define objectives and set goals for job creation, housing supply and choice in each subregion. Hornsby Shire has been grouped with Hunters Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Ryde, Northern Beaches and Willoughby to form the North District. The Greater Sydney Commission has released the North District Plan which includes priorities and actions for Northern District for the next 20 years. The identified challenge for Hornsby Shire will be to provide an additional 4,350 dwellings by 2021 with further strategic supply targets to be identified to deliver 97,000 additional dwellings in the North District by 2036.

The proposed development would be consistent with the Greater Sydney Region Plan - A Metropolis of Three Cities and the North District Plan, by providing improved housing options suitable for an aging population.

2. STATUTORY CONTROLS

Section 4.15(1)(a) requires Council to consider “*any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and regulations*”.

2.1 Hornsby Local Environmental Plan 2013

The proposed development has been assessed having regard to the provisions of the Hornsby Local Environmental Plan 2013 (HLEP).

2.1.1 Zoning of Land and Permissibility

The subject land is zoned R2 Low density residential under the HLEP. The objectives of the R2 zone are:

- *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 proposed development is defined as a ‘*seniors housing*’ and is prohibited within the R2 zone under the HLEP. Notwithstanding, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD) is the overriding planning instrument that applies to the proposed development for housing of aged and disabled people in NSW and provides for hostels, residential care facilities (nursing homes) self-contained dwellings and multi-storey buildings.

The application proposes 30 self-contained seniors living developments and would provide for the housing needs of the community within a low-density residential environmental, enabling land uses that provide facilities or services to meet the day to day needs of residents.

2.1.2 Height of Buildings

Clause 4.3 of the HLEP provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 8.5m. The proposal has a maximum height of 9.5m and does not comply with this provision.

Notwithstanding, the proposal complies with the overriding height requirements of SEPP HSPD, whereby, the non-discretionary height standard of 8m to the ceiling with which the proposal complies, prevails over any inconsistency with the 8.5m height standard contained in HLEP. This was confirmed in judgements in the Court of Appeal in *Hastings Point Progress Association Inc v Tweed Shire Council* and the Land and Environment Court of NSW in *Eastern Suburbs Leagues Club Ltd v Waverley Council*. This is further reinforced by:

- Section 3.28(1)(a) of the Act which identified that in the event of an inconsistency between environmental planning instruments and unless otherwise provided, there is a general presumption that a SEPP prevails over a local environmental plan made before or after the policy; and
- Clause 5(3) of SEPP HSPD which details the following:
 - (3) *If this Policy is inconsistent with any other environmental planning instrument, made before or after this Policy, this Policy prevails to the extent of the inconsistency.*

2.1.3 Heritage Conservation

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

2.1.4 Earthworks

Clause 6.2 of the HLEP states that consent is required for earthworks. Before granting consent for earthworks, Council is required to assess the impacts of the works on adjoining properties, drainage patterns and soil stability of the locality. The depth of the cut and fill varies significantly throughout the site with a maximum excavation depth of 5m to establish basement carparking to the townhouse and apartment dwellings.

It should also be noted that concern was raised by residents regarding the level of cut required in some areas of the site.

In the context of the site, Council's assessment of the proposed earthworks including fill and excavation concludes that the proposal is satisfactory, given:

- The overall development responds effectively to the topography of the site, minimising the level of earthworks required.
- The development is unlikely to adversely disrupt drainage patterns or soil stability.
- The excavation is to be undertaken on sites with a long history of residential use and present a low risk to potential contamination.
- The excavation is unlikely to result in adverse amenity impacts on adjoining properties, and conditions of consent would be imposed relating to hours of work and management of soil and sedimentation impacts.
- Excavated material would be required to be disposed of at appropriately licensed waste disposal sites.
- No fill is permitted to be brought onto the site.
- Dilapidation reports are to be prepared for all buildings within adjoining properties that may be impacted for the proposed cut.
- There is a low likelihood of disturbing relics.
- The site is not in proximity to any waterway, drinking water catchment or environmentally sensitive area and is therefore, unlikely to have adverse impacts with appropriate site management conditions being imposed.
- Standard conditions of consent would be imposed relating to site management requirements to mitigate against potential adverse impacts.

2.1.5 Flooding

The land is identified as a 'Flood Planning Area' under the HLEP flood planning maps. Flood affected land requires consent from Council to ensure Council is satisfied with the development outcome. The objectives of Clause 6.3 are as follows:

- *"To minimise the flood risk to life and property associated with the use of land,*

- *To allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
- *To avoid significant adverse impacts on floor behaviour and the environment”.*

The site is flood prone and contains a 2.44m wide easement to drain water and restriction on the use of land which dissects diagonally through the north-eastern corner of the site, specifically within the No. 17 Penrhyn Ave property.

The application is supported by an overland flow assessment, prepared by C & M Consulting Engineers detailing Hydraulic Analysis and modelling to determine the Flood Planning Levels and construction requirements. A number of conditions are recommended in Schedule 1 to reflect the recommendations contained within the report to ensure the objectives of Clause 6.3 are adequately met.

As such, the proposal is considered acceptable and supported under Clause 6.3 of the HLEP, subject to conditions.

2.1.6 Design Excellence

Clause 6.8 of the HLEP provides considerations for the delivery of the highest standard of architectural and urban design. The development application was referred to Council's Design Excellence Panel (DEP) on 16 December 2021 and amended plans further reviewed by the Panel on 1 June 2022.

The initial review of the development by the DEP raised a number of concerns and did not support the proposal in its current form. The DEP advised that there were a number of significant issues with the proposal that would need to be addressed, before considering the proposed development for design excellence. A summary of the DEP initial concerns is outlined below:

- In response to the local character the applicant is advised to consider:
 - A planned layout with well-defined precincts with, preferably, centralised and accessible common open spaces within a 'green' grid.
 - Connections between spaces that are clearly identifiable, passively secure and safe, universally accessible generally, and with a high level of amenity.
 - Roads and paths in-keeping with the typical infrastructure, and to avoid driveways and roads passing through or under buildings.
 - Parking under buildings in basements or undercroft areas should be specific to the dwellings above and not part of any drive-through.
 - Trees should be retained where possible and new ones introduced to retain the leafy tree canopy character of the neighbourhood.
 - Building footprints should be sized to reflect typical dwelling footprints of the locality. Where larger footprints are required, step the buildings in response to the topography of the site to minimise excavation and to avoid clashes of bulk and scale.
 - Flat roofs are uncharacteristic to the neighbourhood and should be avoided, generally.
- Significant overshadowing of the common open space provided within the development as a result of siting, building heights and conflicting layout issues.
- Insufficient space for screen planting particularly to the west of the townhouse building.

- A more sympathetic and contemporary design approach to the style and form of the buildings needs to be adopted.
- Lack of building separation between some of the dwellings throughout the site.
- Limited deep soil opportunities throughout the site.
- Lack of central common open space.
- Lack of amenity to private open spaces throughout development.
- Concern regarding the proposed road network and that it should be more open and legible to occupants and visitors.
- Public domain and pedestrian entrance understated.
- Environmentally sustainable development throughout proposal should be further considered.

On 1 June 2022, the DEP further reviewed the proposed development subject to amended plans and additional documentation and concluded the following:

- Concerns remained that the proposed scale and built form is too big for the site relative to the surrounding context.
- The Panel remained unsatisfied with the communal open space suggesting providing a village green like space in the centre of the site.
- Additional areas noted as communal open space are predominantly overshadowed, immediately adjacent to POS or habitable rooms, or leftover spaces that are uninviting and unlikely to be used for recreation due to their location or proximity to residents.
- Remained concerned that the internal road, the road/driveway under the building and pedestrian pathways are uninviting, lacking vegetation and shading via trees.
- Panel's view is that the buildings in the centre of the site should be deleted and replaced with landscaped common open space that is more accessible to all the occupants of the development and that creates a more village like atmosphere.
- Concerns regarding narrow setbacks on the western side of the development with little room for landscaping.
- Concerns regarding balconies in close proximity to windows of adjacent dwellings and a lack of privacy between common open spaces and private living areas.
- The proposed rooftop common open space does not replace the need for a centrally located, easily accessible, ground level, and deep soil, landscaped green open space. Should the rooftop open space be retained it should include accessible toilet facilities, BBQ and shade structure/s.
- The amended plans do not adequately address the issues previously raised by the Panel, including, the number of multi-level dwellings with stairs, external ramps etc. The Panel again questioned the suitability of the site for a seniors' living development.

In response to the DEP advice, Council advised the Applicant that in order to address a number of the matters raised, consideration should be given to reducing the number of dwellings proposed to reduce the scale of the development.

On 9 July 2022, the applicant submitted revised architectural plans with the following changes and comments regarding DEP advice:

- *Two apartments have been deleted from the residential flat building to create a central village green space in the centre of the site, increase the separation distances between dwelling within the site and to substantially reduce the bulk and scale of the central building in the development. Note that all dwellings from 16 upwards have been renumbered.*
- *The proposed FSR of the development has been reduced to 0.45:1.*
- *A Central Village Green area has been created with a direct link to the roof top communal area.*
- *The Apartment building portion of the proposed development is still in the centre of the site surrounded by single level and partial two level dwellings separating this portion of the development from surrounding dwellings. These proposed changes substantially reduce the footprint and building envelope of the apartment building.*
- *Separation of dwellings within the site has been increased*
- *The revised scheme proposes over 30% of the site area in deep soil planting with an additional 3% of landscaped area on podiums (note that this excludes the additional area provided by the roof top terrace).*
- *We disagree with the panels view that the portion of the site along the eastern boundary that is deep soil communal open space will not be used. This area is accessible to all dwellings and also in the context of the SEPP which by definition considers a bus stop within 400m on the site as accessible.*
- *We also disagree with the Panels contention that the topography of the site makes the site unsuitable for Seniors Living. Again the SEPP specifically identifies controls for sites with a cross fall greater than 10%.*
- *We also disagree with the Panels contention that the driveway access within the site is inappropriate. Way finding is a simple decision to proceed straight ahead or turn right at the front of the site which will be clearly sign posted. The fact that one of the driveways goes under one of the buildings in no way makes this driveway less usable or safe. It also provides that a substantially majority of vehicle movements are isolated from the dwellings increasing residential amenity.*
- *We also disagree with the Panels contention that seniors living units should not have more than one level and not have internal stairs. This is clearly evidenced by several precedents for seniors living developments both within the Hornsby LGA and generally. Beyond providing an accessible bedroom, living/dining/kitchen area, bathroom and POS as has been done in all the dwelling proposed by this application, there is no requirement in the SEPP requiring individual dwellings having additional bedrooms, bathrooms and living areas at a second level.*

Following further discussion with the Applicant, amended plans were submitted deleting Unit 4 at the front of the site to improve the public interface/entrance, increase the front setback to conform with adjacent development and provide more landscaping within the front setback to complement the streetscape of Penrhyn Ave.

The following provides a more detailed discussion on some of the key comments raised by the DEP:

2.1.6.1 Scale/Site Context

The reduction in dwelling numbers from 33 to 30 and reconfiguration of the dwellings has reduced the overall bulk and scale of the development and improved the overall amenity of the complex. An increased front setback within the cul-de-sac provides more consistency from within the streetscape.

2.1.6.2 Deep Soil Planting

The revised scheme proposes over 30% of the site area as deep soil planting providing necessary softening and screening to the development. This revised level of planting is considered acceptable and complies with the requirements of SEPP HSPD.

2.1.6.3 Communal Open Space (COS)

The Applicant deleted two units from the central apartment building to create an additional 350m² COS in the centre of the site. This additional COS reduced the bulk and scale of the development whilst improving the overall amenity and design of the Senior Living complex.

2.1.6.4 Internal Road Network

Whilst the DEP raised concern regarding the internal road networks, particularly with regards to the underground throughway beneath the townhouses, Council's Traffic and Safety Branch raised no concern with this layout furthermore, whilst the DEP consider this design unconventional, there is no substantiated reasoning as why this design would impact residential amenity.

2.1.6.5 Western Side Setback

The western side setback generally complies with the 3 metre side setback requirement for the site and provides screen landscaping where possible. Essential services for accessibility and waste have been placed adjacent to the site at No. 573 Pennant Hills. Due to the topography of the land in relation to the adjoining site and existing screen planting, these services would have minimal amenity impacts to neighbouring properties and are considered acceptable in this regard.

2.1.6.6 Accessibility

SEPP HSPD requires developments to comply with development standards contained within Schedule 3 of the SEPP to ensure an adequate level of access for people with disabilities. The application includes an Access Report that addresses these controls and demonstrates that adequate accessibility would be provided throughout the proposed complex.

As detailed above, the application has undergone a detailed design review with the objective of ensuring an adequate level of design excellence. Council considers that the considerations provided by the DEP have been adequately addressed and the development as proposed is consistent with the requirements of Clause 6.8 of the HLEP.

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

Despite the recent commencement of State Environmental Planning Policy (Housing) 2021 on 26 November 2021 (which repeals State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD), SEPP HSPD will apply to this application as it was lodged prior to the commencement of the new SEPP.

SEPP HSPD is the overriding planning instrument for the development of housing for aged and disabled people in NSW and provides for hostels, residential care facilities (nursing homes) self-contained dwellings and multi-storey buildings. SEPP HSPD is comprehensive in scope including land use planning provisions, design principles, development standards and standards specifically to meet

the housing needs of aged and disabled people. SEPP HSPD also includes design guidelines for infill development. Assessment of the proposal in accordance with the relevant requirements of SEPP HSPD is provided as follows:

2.2.1 Clause 13 - Self Contained Dwellings

For the purposes of assessment against SEPP HSPD, the proposed development is defined as '*in-fill self-care housing*' comprising 30 '*self-contained dwellings*'.

2.2.2 Clause 26 - Location and Access to Facilities

SEPP HSPD includes mandatory standards for accessibility and useability of self-contained dwellings to ensure wheelchair accessibility throughout the development and to a public road. Mandatory standards also apply for access to public transport, medical services and shops. The applicant submitted an Access Report which includes a detailed assessment of the subject site and the proposed development, concerning compliance with the mandatory standards. Some minor amendments will be required to comply with AS1428.1, AS4299 and SEPP HSPD. All of these requirements are achievable and recommended conditions in Schedule 1 to ensure compliance.

The site is immediately surrounded by low density residential development generally comprising 1-2 storey dwelling houses. A contemporary 2-storey seniors housing complex known as Copeland Gardens at Nos. 585-587 Pennant Hills Road and Nos. 3-5 Copeland Road containing 19 dwellings consisting of detached dwelling houses, town houses and an apartment building is located in close proximity to the site.

Pennant Hills Golf Course is located within 100m of the site, to the south.

There is an existing concrete public pathway connecting the western end of Penrhyn Avenue to Pennant Hills Road which provides access to bus stops for services which link to Parramatta and intervening centres, with easy access to local services and amenities. An additional pedestrian footpath is also proposed along the access handle of No. 579 Pennant Hills Road which provides improved accessibility to the bus stops for residents of the complex.

NorthConnex, a twin tunnel linking the M1 Pacific Motorway at Wahroonga to the Hills M2 Motorway at West Pennant Hills, is located at a stratum level below the site. These major roads are all within 600m of the subject site for convenient access.

Given the above, the proposal complies with the provisions of Clause 26.

2.2.3 Clause 30 - Site Analysis

The application includes a site analysis in accordance with the requirements of the SEPP HSPD. The proposal is assessed as satisfactory in this regard.

2.2.4 Clause 31 - Design of In-Fill Self-Care Housing

In determining a development application seeking approval for *in-fill self-care housing*, a consent authority must take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration) the provisions of the Seniors Living Policy: Urban Design Guideline for Infill Development published by the then Department of Infrastructure, Planning and Natural Resources in March 2004.

The merits of the proposal in meeting the SEPP HSPD design principles and the Seniors Living Policy Urban Design Guidelines for Infill Development are discussed in the following sections of this report.

2.2.5 Clause 33 - Neighbourhood Amenity and Streetscape

The irregular subdivision pattern in this area, which involves multiple hatchet-shaped allotments, has resulted in a building pattern and spacing that lacks the consistency of most low density residential precincts. Despite this, the proposal will be compatible and consistent with the height, bulk, scale and setback of surrounding residential area.

The complex will provide an attractive streetscape element in Penrhyn Avenue in terms of its articulated built form and its landscaped street setback and will be compatible with the streetscape characteristics of residential buildings at the western end of the street's cul-de-sac.

Dwellings 1, 2, 3 and 4 were re-designed to ensure the front setback of the development conforms to adjoining building setbacks.

The proposal is considered consistent with the R2 zone objectives of the HLEP and will:

- Take advantage of the site's attributes in terms of its outlook and aspect.
- Increase the variety of housing types available to satisfy the housing needs of the local community.
- Embrace the principles of ecologically sustainable development.

In summary, it is considered that the development provides for appropriate spatial separation to neighbouring dwellings in terms of access to light, sunlight and visual privacy with respect to both existing development and the desired future character of the area. The landscape treatment to the curtilage areas of the building as proposed will reinforce the landscape setting of the locality. As such, the proposal has addressed the neighbourhood amenity and streetscape so as to be compatible with the existing and future natural and built environment and would comply with the provisions of Clause 33.

2.2.6 Clause 34 - Visual and Acoustic Privacy

The proposed dwellings are designed with regard to visual privacy to avoid overlooking neighbouring residences. This coupled with the proposed landscaping and setbacks results in adequate space for effective landscape settings along the boundaries of the development and separation between neighbouring buildings.

To maintain the privacy of a number of residences within the complex and neighbouring properties, it is recommended that any balcony servicing a dwelling greater than 600mm above natural ground level include translucent glazed balustrades to maintain visual amenity. A condition is recommended in Schedule 1 accordingly.

The proposed private open space areas are integrated with the living areas of the dwellings and have regard to acoustic privacy. The development is to be used as seniors living and therefore, would be a low noise generating development. The proposal would not have any unreasonable acoustic impact on the surroundings and would comply with the provisions of Clause 34.

2.2.7 Clause 35 - Solar Access and Design for Climate

The living areas of the proposed dwellings are orientated towards the north-west for appropriate solar access. The submitted solar analysis diagrams demonstrate that 25 of the dwellings receive a minimum 3 hours of sunlight to living rooms and private open spaces between 9am and 3pm the Winter Solstice.

In addition, supporting shadow diagrams demonstrate that adjoining properties would receive negligible additional shadowing impacts as a result of the proposed development and would be compliant with Part 3.1.5 Sunlight Access requirements of the HDCP.

As such, the proposal complies with the provisions of Clause 35.

2.2.8 Clause 36 - Stormwater

The proposed stormwater drainage system is designed to minimise impacts on downstream waterways and would be connected to the Council controlled drainage system directed to an inter-allotment drainage easement to Copeland Road via an on-site detention system and a Water Quality Control system.

As such, the proposal complies with the provisions of Clause 36.

2.2.9 Clause 37 - Crime Prevention

The accessway design, pedestrian linkages and orientation of dwellings ensures casual surveillance of the development and separation of public and private areas. As such, the proposal is satisfactory in respect to crime prevention and the provisions of Clause 37.

Concerns were raised by objectors with regards to crime prevention; however, it is considered that the above requirements and associated conditions of consent would adequately address these concerns.

2.2.10 Clause 38 - Accessibility

The development remains fully accessible with the internal and outdoor layouts satisfying the applicable standards of the Building Code of Australia and the *Disability Discrimination Act 1992* as demonstrated in the supporting Access Report.

Concerns were raised by objectors with regards to accessibility; however, it is considered that the above requirements and associated conditions of consent would adequately address these concerns.

2.2.11 Clause 39 - Waste Management

The 30 self-contained dwellings would require the following waste management:

Bin Room	Dwellings utilising	No Bins Required
Near dwelling 24	4 dwellings 23, 24, 25, 26	Waste: 1 x 240 (serviced twice weekly) Recycle: 2 x 240 (serviced weekly) FOGO/GO: 1 x 240
Near dwelling 13	8 dwellings 7, 8, 9, 10, 11, 12, 13, 14	Waste: 2 x 240 (serviced twice weekly) Recycle: 4 x 240 (serviced weekly) FOGO/GO: 2 x 240
Next to dwelling 6 garage	3 dwellings* 1, 2, 3 *This is also the main holding room	Waste: 1 x 240 (serviced twice weekly) Recycle: 2 x 240 (serviced weekly) FOGO/GO: 1 x 240
Behind dwelling 7 garage	3 dwellings 4, 5, 6	Waste: 1 x 240 (serviced twice weekly) Recycle: 2 x 240 (serviced weekly) FOGO/GO: 1 x 240

Next to dwelling 15 garage	12 dwellings 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30	Waste: 3 x 240 (serviced twice weekly) Recycle: 6 x 240 (serviced weekly) FOGO/GO: 3 x 240
Total General Waste: 8 Total Recycle: 16 Total FOGO/GO: 8		Total serviceable bins: 32
Spare Bins: 5		1 x 240L general waste bin per bin room for use by residents while serviceable bins are awaiting collection

It should be noted that concerns were raised by objectors regarding waste management on the site; however, it is considered that the above detail and conditional requirements would adequately address these concerns.

Subject to some minor conditional amendments, it is considered that these bin areas would have sufficient space to house the bins. These bin storage areas would be accessible for persons with a disability. It is proposed that a site caretaker would cart the bins from the bin area to the bin collection point for servicing.

The waste truck will reverse onto the site and exit in a forward direction when collection is required. The 6 metre wide driveway will allow for vehicles to pass the truck if required.

Standard ongoing waste management requirements are required to be complied with in perpetuity as conditioned in Schedule 1 of this report.

Given the above, the application is assessed as satisfactory with regard to Clause 39.

2.2.12 Clause 40 - Development Standards

The proposal complies with the standards in respect to the site area being greater than 1,000m² and site frontage of greater than 20m at the building line, as the site has an area of 7,907.6m² and a site frontage of approximately 40m to Penrhyn Avenue.

Clause 40(4) specifies height requirements in zones where residential flat buildings are not permitted. A residential flat building is defined as a building containing two or more self-contained dwellings. Residential flat buildings are prohibited in the R2 Low density residential zone; however, the proposal complies in terms of the requirements of SEPP HSPD with the maximum height to the ceiling of the topmost floor of the buildings being no more than 8 metres.

2.2.13 Clause 41 - Standards Regarding Accessibility and Useability

This clause requires developments to comply with development standards contained within Schedule 3 of SEPP HSPD to ensure an adequate level of access for people with disabilities. The application includes an Access Report that addresses the controls. Compliance with the controls is discussed below and reinforced by conditions of consent.

Clause	Control	Compliance	Comments
2	Wheelchair access 100% of the units must have	Yes	Levels are designed to provide a

	<p>wheelchair access by a continuous path of travel to an adjoining public road and to common areas.</p> <p>Site gradient should be less than 1:10</p> <p>Common areas</p>	<p>Yes</p> <p>Yes</p>	<p>continuous accessible path from the units to the internal driveway and public road. The access report certifies that all gradients are suitable for wheelchair access.</p> <p>Modified site gradient would be less than 1:10.</p> <p>Wheelchair accessibility provided to all common areas</p>
3	<p>Security</p> <p>Pathway lighting</p>	<p>Yes</p>	<p>Low Level lighting adjacent to all pathways, courtyards and dwelling entrances.</p>
4	<p>Letterboxes</p>	<p>Yes</p>	<p>To be provided at the entry point</p>
5	<p>Private car accommodation</p> <p>If car parking (not being car parking for employees) is provided:</p> <p>Car spaces must comply with AS2890, and</p> <p>5% of total number must be designed to enable width to be increased to 3.8 metres.</p> <p>Any garage with power operated doors</p>	<p>Yes</p> <p>Yes</p>	<p>Parking spaces comply with AS2890.6</p> <p>Garages would have power operated doors.</p>
6	<p>Accessible entry</p> <p>Every entry must comply with AS4299.</p>	<p>Yes</p>	<p>The access report advises that the units comply. Compliance can be ensured via condition of consent.</p>
7	<p>Interior: general</p> <p>Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.</p>	<p>Yes</p>	<p>The access report advises that the units comply with AS1428.1. Compliance is ensured via condition of consent.</p>
8	<p>Bedroom</p> <p>One bedroom to accommodate a wardrobe and queen-size bed and a clear area of at least 1200mm at the foot of the bed and 1000mm</p>	<p>Yes</p>	<p>The access report advises that the units comply with AS1428.1. Compliance is ensured via condition of consent.</p>

	wide beside the bed and the wall.		
9	Bathroom At least 1 bathroom to comply with AS1428.1	Yes	The access report advises that the units comply with AS1428.1. Compliance is ensured via condition of consent.
10	Toilet Provide a visitable toilet per AS4299.	Yes	The access report advises that the units comply with this provision. Compliance is ensured via condition of consent.
11/ 12/ 13	Surface finishes/ Door hardware/ Ancillary items .	Yes	Compliance via condition of consent recommended and as per access report advice.
15	Living room and dining room Circulation space per AS4299.	Yes	The access report advises that the units comply with this provision. Compliance is ensured via condition of consent.
16/ 17	Kitchen/ Access Circulation space per Cl.4.5.2 of AS4299. Width of door approaches of 1200mm.	Yes	The access report advises that the units comply with this provision. Compliance is ensured via condition of consent.
18	Lifts Lifts in multi-storey buildings	Yes	Complies
19	Laundry Width of door approach to be 1200mm Clear space in front of appliances of 1300mm.	Yes	The access report advises that the units comply with this provision. Compliance is ensured via condition of consent.
20	Storage for Linen	Yes	Linen cupboards provided.
21	Garbage A garbage storage area must be provided in an accessible location.	Yes	An accessible path of travel is provided to the garbage storage rooms.

As indicated in the above table, the proposal complies with the development standards contained within Schedule 3 of SEPP HSPD.

2.2.14 Clause 50 - Standards that Cannot be Used to Refuse Development Consent for Self-Contained Dwellings

SEPP HSPD includes non-discretionary development standards whereby compliance cannot be used to refuse development consent. The following table sets out the proposal's compliance with these standards.

Clause	Control	Proposal	Requirement	Compliance
50(a)	Building Height	max. 8m ceiling height	8m	Yes
		1-2 storeys + basement carparking	2 storeys	Yes
50(b)	Density and Scale	0.45:1	0.5:1	Yes
50(c)	Landscaped Area	40%	30%	Yes
50(d)	Deep Soil - <i>Percentage</i> - <i>Deep soil at the rear</i> - <i>Minimum dimension</i>	26%	15%	Yes
		Internal allotment	2/3 of site area	N/A
		3m	3m	Yes
50(e)	Solar Access	75.7%	70%	Yes
50(f)	Private open Space - <i>Ground level units</i> - <i>Minimum dimension</i> - <i>Upper level units</i> - <i>Minimum dimension upper level</i>	>15m ²	15m ² (min)	Yes
		3m	3m	Yes
		>10m ²	10m ² (min)	Yes
		2m	2m	Yes
50(h)	No. of car spaces (min. 0.5 car space per bedroom)	60 spaces + 7 visitors spaces	45 spaces (90 bedrooms)	Yes

As detailed above, the proposal complies with SEPP HSPD.

2.3 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The application has been assessed against the requirements of Chapters 2 and 10 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

2.3.1 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 2.3 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 1B.6.1 of the HDCP prescribes works that can be undertaken with or without consent to trees and objectives for tree preservation.

Section 2.7.1 and 3.1.1 of this report provides an assessment in accordance with Part 1B.6.1 of the HDCP.

2.3.2 Chapter 10 Sydney Harbour Catchment

The site is located within the catchment of Sydney Harbour. The aim of this chapter is to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained. This chapter provides general planning considerations and strategies to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained.

The plan addresses matters related to biodiversity, ecology and environment protection; public access to, and use of, foreshores and waterways; maintenance of a working harbour; 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 have minimal potential to impact on the Sydney Harbour Catchment and would comply with the requirements of Chapter 10 of the Biodiversity and Conservation SEPP.

2.4 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The application has been assessed against the requirements of State Environmental Planning Policy (BASIX) 2004 which seeks to encourage sustainable 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 thermal comfort, water and energy.

The proposal is acceptable in this regard.

2.5 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.

2.5.1 Chapter 4 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 applicant submitted a Detailed Site Investigation Report (DSI) prepared by Neo Consulting for the proposed development which considers that the potential for widespread contamination of the site is low and that the site is suitable for the proposed residential land use. Council's environmental review of the submitted information raised no objection to the proposed development.

Nevertheless, a number of precautionary conditions relating to hazardous materials, asbestos, demolition, waste classification and unexpected finds protocol are recommended in Schedule 1, in line with the recommendations of the DSI.

2.6 Section 3.42 Environmental Planning and Assessment Act 1979 - Purpose and Status of Development Control Plans

Section 3.42 of the *Environmental Planning and Assessment Act 1979* states that a DCP provision will have no effect if it prevents or unreasonably restricts development that is otherwise permitted and complies with the development standards in relevant Local Environmental Plans and State Environmental Planning Policies.

The principal purpose of a development control plan is to provide guidance on the aims of any environmental planning instrument that applies to the development; facilitate development that is permissible under any such instrument; and achieve the objectives of land zones. The provisions contained in a DCP are not statutory requirements and are for guidance purposes only. Consent authorities have flexibility to consider innovative solutions when assessing development proposals, to assist achieve good planning outcomes.

2.7 Hornsby Development Control Plan 2013

The Hornsby Development Control Plan 2013 (HDCCP) applies to all land within Hornsby Shire. Parts 1 and 7.2 apply to the proposed development. Below is a discussion on the relevant parts of the HDCCP that apply to the proposed development.

2.7.1 Tree Preservation and Biodiversity

The proposed development would require the removal of 100 trees from the site. 81 of the trees proposed to be removed from the site are identified as exempt or low retention value. The remaining 19 trees to be removed are either unsuitable for retention or of poor health.

The property is located in close proximity to Blue Gum High Forest vegetation which is listed as critically endangered under the *Commonwealth Environmental Protection and Biodiversity Conservation Act 1999* and the *NSW Biodiversity Conservation Act 2016*.

The site is mapped on the Terrestrial Biodiversity or Environmentally Sensitive Lands Map; however, no locally native trees are proposed to be removed.

The proposal does not require the removal or modification of a significant area of vegetation or habitat, is generally consistent with the biodiversity element of HDCCP and would not have a significant impact on matters listed under the *NSW Biodiversity Conservation Act 2016*. Appropriate conditions are recommended in Schedule 1 of this report for tree protection and replacement planting.

As such, the proposal meets the requirements of Part 1B.6 Tree and Vegetation Preservation and the desired outcomes and prescriptive measures of Part 1C.1.1 Biodiversity under the HDCCP and is considered acceptable.

2.7.2 Earthworks and Slope

Part 1C.1.4 Earthworks and Slope under the HDCCP has been addressed in Section 2.1.4 of this report and is considered acceptable.

2.7.3 Transport and Parking

1C.2.1 Transport and Parking of the HDCCP provides controls for the management of transport demand around transit nodes, provision of parking to meet the requirement of future occupants and their visitors and provide development with simple, safe and direct vehicular access. The HDCCP requires Seniors Housing developments to satisfy the parking requirements of SEPP HSPD.

A number of concerns were also raised by objectors regarding traffic generation and safety.

A Traffic and Parking Impact Assessment was submitted with the application. The report estimates traffic generation of the existing site and the proposed development using TfNSW traffic generation

rates. The traffic generation of the development is estimated to be a net increase of 8 vehicles per hour. The calculated traffic generation is a minor increase in comparison to the existing traffic volumes on the local road networks and is considered acceptable.

In addition to the above, the following requirements have been conditioned in Schedule 1 of this report to maintain traffic and road safety:

- 'No Parking' signs are to be installed in the Cul-de-sac subject to the approval of the Hornsby Local Traffic Committee.
- The intersection of Penrhyn Avenue with Hannah Street is to be formalised as a stop-controlled intersection with 20 metres no stopping and stop-line markings at the Penrhyn Avenue approach subject to the approval of Hornsby Local Traffic Committee.
- A pedestrian footpath along the full length of north-western side of Penrhyn Avenue is to be constructed and approved by Council.
- All car parking must be constructed and operated in accordance with Australian Standard AS/NZS 2890.1:2004 Off-street car parking and Australian Standard AS2890.2:2002 Off-street commercial vehicle facilities.
- Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpaths.
- Residential parking spaces are to be secure spaces with access controlled by card or numeric pad. Visitors must be able to access the visitor parking spaces in the basement car park at all times.

The development proposes 67 car parking spaces (60 residential, 7 visitor) on the site which complies with the SEPP HSPD.

It should also be noted that truck manoeuvring diagrams were submitted to Council demonstrating adequate detail for trucks to operate and turn into the cul-de-sac including future waste vehicles that would be required to reverse onto the site for garbage collection and exit in a forward direction.

Council's traffic assessment concludes that subject to the recommended conditions, the proposal would have minimal impacts to the existing local road network and is considered to be acceptable under Part 1C.2.1 Transport and Parking of the HDCP.

2.7.4 Accessible Design

The HDCP states that access for Seniors Housing is to be provided in accordance with the requirements of SEPP HSPD. The applicant has submitted an Access Report in accordance with the requirements SEPP HSPD which has been discussed further within Section 2.2.10 of this report. The proposal meets the desired outcomes and prescriptive measures of Part 1C.2.2 Accessible Design under the HDCP and is considered acceptable.

2.7.5 Waste Management

The application includes a waste management plan in accordance with the requirements of the HDCP. A detailed discussion on the design of the waste facilities for on-going waste management has been discussed in Section 2.2.11 of this report.

2.7.6 Crime Prevention

The proposal incorporates crime prevention through the implementation of environmental design principles throughout the development. The accessway design, pedestrian linkages and orientation of

dwelling ensures casual surveillance of the development and separation of public and private areas. The proposal is considered satisfactory with respect to Part 1C.2.7 Crime Prevention under the HDCP.

2.7.7 Building Sustainability

The development includes a BASIX Certificate demonstrating that the building complies with SEPP BASIX and therefore meets the requirements of Part 1C.2.8 Building Sustainability under the HDCP.

2.7.8 Landscaping

The proposed development incorporates landscaping that integrates the built form with the locality and reinforces the desired future character of the low density residential area.

Various amendments made throughout the assessment process, including the reduction of 3 units have allowed for additional landscaping throughout the site, in particular within the front setback of the Penrhyn Ave cul-de-sac.

The landscaping softens the visual impact of the buildings and improves the aesthetic quality of the development, meeting the desired outcomes and prescriptive measures of Part 1C.2.9 Landscaping under the HDCP.

2.7.9 Part 7.2 Community Housing

Part 7.2 of the HDCP provides guidelines for the development of land for seniors housing, boarding houses, group homes and hostels throughout the Hornsby Shire. Part 7.2.1 provides the following desired outcomes and prescriptive measures for Seniors Housing:

Desired Outcomes

- a. *Development with a bulk, scale and intensity that is compatible with the character of the area.*

Prescriptive Measures

- a. *Development for Seniors Housing should comply with the planning controls in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (as amended).*

Part 3.1.1 of the HDCP identifies that the desired outcome for development within low density is to be of a height, bulk and scale that is compatible with a low density residential environment. The R2 low density residential environment is to be characterised by:

- Low density housing comprising a mixture of one and two storey dwellings in a landscaped setting.
- Buildings are to have low pitched roofs with wide eaves. Additional floor space is provided within an attic, where the floor area is contained wholly within the roof space.
- Development footprints are limited in scale and located to achieve setbacks to boundaries incorporating soft landscaping and buildings separated by garden areas.
- Contemporary buildings utilise façade modulation and incorporate shade elements, such as pergolas, verandah and the like.
- The larger scale dwellings on the site have been centralised, with the detached/attached dwellings around the perimeter of the site to reduce visual and amenity impacts to adjoining neighbours.

The proposal generally conforms with the desired outcomes resulting in building envelopes that are consistent with the desired future character for low density development in the locality. The proposal has been sympathetically designed within the locality and would be of an acceptable bulk and scale in the context of the area. The buildings would be softened by a suitable surrounding landscape setting.

The development would deliver a wide choice of private and communal open space.

The proposal satisfies the desired future character requirements, the planning controls in SEPP HSPD as addressed in Section 2.2 of the report and would meet the desired outcomes and prescriptive measures of Part 7.2 Community Housing under the HDCP.

2.8 Section 7.11 Contributions Plans

Hornsby Shire Council Section 7.11 Contributions Plan 2020-2030 applies to the development as it would result in an additional 24 residential dwellings/lots in lieu of the 6 existing residences/lots. Accordingly, the requirement for a monetary Section 7.11 contribution is recommended as a condition of consent.

3. ENVIRONMENTAL IMPACTS

Section 4.15(1)(b) of the Act requires Council to consider *“the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality”*.

3.1 Natural Environment

3.1.1 Tree and Vegetation Preservation

The proposed development would require the removal of 100 trees from the site. 81 of the trees proposed to be removed from the site are identified as exempt or low retention value. The remaining 19 trees to be removed are either unsuitable of retention or poor health.

The trees to be retained on and adjoining the site require the installation of tree protection fencing and the implementation of tree protection measures throughout demolition and construction, monitored by the project arborist. Conditions are recommended in Schedule 1 of this report to address these requirements.

To offset tree loss on the subject site, a minimum of 15 trees (min. 3 metres in height) are required to be planted on site to offset the loss of trees. In addition, an extensive plant schedule including a number of screening plants, shrubs, ornamental, groundcover and grasses are also proposed within the site, more specifically outlined below:

- Mature height greater than 10m: 2x Jacaranda, 8x Ornamental Pear and 1x Japanese Zelkova.
- Mature height between 3m-10m: 5x Coral Barked Maple, 13x Blueberry Ash, 8x Crepe Myrtle, 10x Dwarf Magnolia, 16x Ornamental Pear and 9x Chinese Tallow.
- Mature height of 3m: 56x Lilli Pilli, 80x Sasanqua Camellia, 23x Purple Hop Bush and 67x Photinia.
- And more than 2000 species under 3m in height used for screening plants, shrubs, ornamental, groundcover and grasses including species such as Dwarf Lilli Pill's, Guinea Flower, Star Jasmine, Paroo Lily etc.

No objection is raised to the proposed tree removal, as trees to be removed are generally not identified as being worthy of retention and appropriate replacement planting will occur on site to maintain local canopy cover.

3.1.2 Stormwater Management

The proposed stormwater drainage system is designed to minimise impacts on downstream waterways and would be connected to the Council controlled drainage system directed to an inter-allotment drainage easement to Copeland Road via an on-site detention system and a Water Quality Control system. Conditions are recommended for the system to be designed and constructed in accordance with Council's AUS-SPEC Specifications. Accordingly, the proposed development satisfies the desired outcomes and prescriptive measures of Part 1C.1.2 Stormwater Management under the HDCP.

3.2 Built Environment

3.2.1 Traffic

Refer to discussion under section 2.7.3 of this report.

3.3 Social Impacts

The residential development would improve housing choice in the locality by providing a range of household types. This is consistent with Council's Housing Strategy which identifies the need to provide a mix of housing options to meet future demographic needs in Hornsby Shire.

The location of the development provides easy access to local services and amenities. There is an existing concrete public pathway connecting the western end of Penrhyn Avenue to Pennant Hills Road which provides access to bus stops for services which link Pennant Hills to Parramatta and intervening centres. An additional pedestrian footpath is also proposed along the access handle for No. 579 Pennant Hills Road, which provides improved accessibility to the bus stops for residents of the development.

3.4 Economic Impacts

The proposal would have a positive impact on the local economy in conjunction with other new low density residential development in the locality by generating an increase in demand for local services.

4. SITE SUITABILITY

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

4.1 Flooding

The site is flood prone and contains a 2.44m wide easement to drain water/ restriction on the use of land which dissects diagonally through the north-eastern corner of the site, specifically within No. 17 Penrhyn Ave.

The application is supported by Overland Flow Assessment, prepared by C & M Consulting Engineers detailing Hydraulic Analysis and modelling to determine the Flood Planning Levels and construction requirements.

Refer to section 2.1.5 for further discussion in this regard.

5. PUBLIC PARTICIPATION



Section 4.15(1)(d) of the Act requires Council to consider “any submissions made in accordance with this Act”.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners from 24 November 2021 to 16 December 2021 and from 2 August 2022 to 25 August 2022 in accordance with the Hornsby Community Engagement Plan. During these notification periods, Council received a total of 80 submissions. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

<ul style="list-style-type: none"> • PROPERTIES NOTIFIED 	<ul style="list-style-type: none"> X SUBMISSIONS RECEIVED 	 PROPERTY SUBJECT OF DEVELOPMENT	
11 SUBMISSIONS RECEIVED OUT OF MAP RANGE OR UNKNOWN			

44 submissions were received during the first notification period. An additional 36 submissions were received during the second notification period. Issues raised include:

- Overall concerns regarding the number of units in complex and that the amended reduction in 2 units was not enough for the site.
- Significant traffic increase to Penrhyn Ave, impacting existing residents with what is currently a quiet residential street.
 - Penrhyn Ave not wide enough to allow for 2 way traffic and parking on both sides of road.

- Street not wide enough to allow for large trucks to operate and turn around in cul-de-sac.
- Requests for a wider footpath in street, if development goes ahead.
- Significant traffic implications to Hannah Street, which already serves as a short cut to Pennant Hills Road for traffic which should otherwise be using Copeland Road – concerns regarding safety of children and community within the area as a result.
 - Many noted that the Hannah Street intersection is already dangerous, and this will only add to the associated safety issues.
- Impacts associated with construction works on the site including noise associated.
- Concerns regarding no shops within walking distance.
- Concerns regarding location of notification sign during notification period.
- Concerns that the proposal does not achieve design excellence.
- Concerns regarding privacy implications to neighbouring properties at No. 11A Copeland Road, Beecroft.
- The proposal would significantly impact the streetscape character of Penrhyn Ave.
- Loss of trees and vegetation.
- Requests for additional visitors parking.
- Solar panels on rooftops should be considered.
- Unclear quantities and details of cut and fill - concerns regarding level of excavation required in some areas of site.
- Concerns regarding the waste management and garage disposal and collection of bins requirements.
- That the applicant is seeking maximum yield at the expense of better design, amenity and privacy and a higher standard of housing should be required.
- Lack of open space.
- Lack of consideration for green energy.
- Concerns regarding accessibility throughout the site for seniors given the topography of land and number of storeys.
- Increase security risk to housing within street due to increased population.
- The proposal is not in keeping with the area.
- 3 seniors living development within close proximity of the site - considered an overdevelopment of the area.
- Lack of public transport in the area.
- Concerns regarding the height of the development.
- Request that setback of development to No. 573 Pennant Hills Road be increased to protect trees and swimming pool structure.
- Bus commuters park on Penrhyn Ave causing an overflow of parking within the street.

- Asbestos concerns relating to house to be demolished on the sites.
- Concerns regarding emergency access vehicles being blocked as a result of construction works and additional cars in street.
- Concerns regarding HDCP setback non-compliances, specifically in relation to Units 1 and 2.
- Concerns regarding fencing within front setback of Units 1 and 2 to achieve private open space.
- Concerns regarding stormwater/overland flow and additional flood risk to area.

The merits of the matters raised in community submissions have been addressed in the body of the report with the exception of the following:

5.1.1 Number of Units/ Standard of Housing

The overall number of Units was reduced from 33 to 30 which was considered appropriate for the site and is compliant with the prescriptive requirements of SEPP HSPD as discussed in the body of this report.

5.1.2 Hannah Street/ Penrhyn Ave Intersection

As indicated in Section 2.7.3 of this report, the following would be required to address the concerns regarding the Hannah Street/ Penrhyn Ave intersection:

- The intersection of Penrhyn Avenue with Hannah Street is to be formalised as a stop-controlled intersection with 20 metres no stopping and stop-line markings at the Penrhyn Avenue approach subject to the approval of Hornsby Local Traffic Committee.
- A pedestrian footpath along the full length of north-western side of Penrhyn Avenue is to be constructed and approved by Council.
- Streetlighting in Penrhyn Avenue is to be assessed by the proponent, to ensure it meets the relevant requirements for the increased pedestrian activity in Penrhyn Avenue.

5.1.3 Amenity Impacts Associated with Construction

It is inevitable that with development comes some disruption and amenity impact to the neighbouring community.

Notwithstanding, there a number of conditions applied to the consent, including the restriction of construction hours and the implementation of a construction management plan approved by Council to manage and reduce any potential amenity impacts associated with demolition and construction works on the site.

5.1.4 No Shops/ Limited Public Transport Within Walking Distance

Where a senior living development is not located within walking distance to shops and services, accessibility can be achieved by being within walking distance to public transport.

Bus stops are located on Pennant Hills Road that provide for travel to and from the site to shops and services. The bus stops are located within 400m of the site which meets the accessibility requirements under SEPP HSPD.

5.1.5 Notification Sign

The issue relating to the inadequate location of the notification sign on the site was rectified during the assessment process. Whilst there were no issues with this location, Council contacted the applicant who agreed to relocate the sign to satisfy nearby residents.

5.1.6 Privacy Impacts to No. 11A Copeland Road, Beecroft

Council in its assessment of the application considered the privacy impacts associated to the adjacent dwelling at No. 11A Copeland Road and requested that the applicant address this concern. The applicant agreed to delete the proposed balcony on the southern elevation of this dwelling.

5.1.7 Solar Panels and Green Energy

Council cannot enforce the requirement for solar panels and green energy initiative; however, the development includes a BASIX Certificate demonstrating that the building complies with SEPP BASIX and therefore meets building sustainability requirements in this regard.

5.1.8 Lack of Communal Open Space (COS)

Amended plans were submitted providing additional COS within the central component of the site to address both community and design concerns. It is considered that the additional COS significantly improves the amenity of the development.

5.1.9 Senior Living Developments within Close Proximity

There is no limitation on the number of Seniors Living developments within a certain area and no further concerns are raised in this regard.

5.1.10 Front Setback Requirements

The front setback of the development from Penrhyn Avenue has been increased to conform to the streetscape and provide additional landscaping.

5.1.11 Height of Development

Refer to sections 2.1.2 and 2.2.12 for further discussions with regards to heights and compliance with SEPP HSPD.

5.1.12 Increase Setback to No. 573 Pennant Hills Road

The western side setback generally complies with the 3m side setback requirement for the site and provides screen landscaping where possible. Essential services for accessibility and waste have been placed adjacent to the site at No. 573 Pennant Hills. Due to the topography of the land in relation to the adjoining site and existing screen planting, these services would have minimal amenity to neighbouring properties and are considered acceptable in this regard.

To further protect the property at No. 573 Pennant Hills Road, a condition is recommended in Schedule 1 of this report that a dilapidation report detailing the structural condition of the adjoining property must be prepared prior to the commencement of works.

5.1.13 Emergency access vehicles being blocked as a result of construction works and additional cars in street

The implementation of a Council approved Construction Management Plan and adequate parking on site would prevent emergency access vehicles being blocked within the street.

5.1.14 Fencing for Units 1 and 2 Private Open Space (POS)

It is considered that adequate landscaping would provide appropriate screening of the POS of Units 1 and 2.

5.1.15 Stormwater and Flooding

Refer to sections 2.1.5 and 3.1.2 of this report for further discussion with regards to stormwater and flooding. It is considered that appropriate measures have been taken to protect the overland flow path on the site and adequately drain stormwater.

5.2 Public Agencies

The development application was not referred to any Public Agencies for comment.

6. THE PUBLIC INTEREST

Section 4.15(1)(e) of the Act requires Council to consider "*the public interest*".

The public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. Implicit to the public interest is the achievement of future built outcomes adequately responding to and respecting the future desired outcomes expressed in environmental planning instruments and development control plans.

The application is considered to have satisfactorily addressed Council's and relevant agencies' criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

CONCLUSION

The application proposes the demolition of 5 existing dwellings and the construction of 30 self-contained Seniors living dwellings. The application also proposes the consolidation of the 6 lots into 1, associated civil/site works and landscape works.

The development generally meets the desired outcomes of Council's planning controls and is satisfactory having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

Council received a total of 80 submissions during the public notification periods. The matters raised have been addressed in the body of the report.

Having regard to the circumstances of the case, approval of the application is recommended.

The reasons for this decision are:

- The proposed development complies with the requirements of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, relevant environmental planning instruments and the Hornsby Development Control Plan 2013.
- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, solar access, amenity or privacy.

Note: At the time of the completion of this planning report, no persons have made a Political Donations Disclosure Statement pursuant to Section 10.4 of the Environmental Planning and Assessment Act 1979 in respect of the subject planning application.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this report is Madeleine Bayman.

CASSANDRA WILLIAMS
Major Development Manager - Development
Assessments
Planning and Compliance Division

ROD PICKLES
Manager - Development Assessments
Planning and Compliance Division

Attachments:

1. ~~Locality Plan~~
2. ~~Context Plan~~
3. ~~Architectural Plans~~
4. ~~Landscape Plans~~

File Reference: DA/1244/2021
Document Number: D08505147