



City of Parramatta	
File No:	DA/1057/2021

SECTION 4.15 ASSESSMENT REPORT

Environmental Planning & Assessment Act 1979

DA No:	DA/1057/2021
Subject Property:	Lot 1 DP 210512, Lot 16 DP 238510, Lot 6 DP 259726, 43-47 Murray Farm Road, No. 13 and No. 19 Watton Road, Carlingford, NSW 2118
Proposal:	Demolition of existing structures, tree removal and construction of a part two (2) and part three (3) storey residential care facility (Seniors Housing) comprising of 110 beds with one (1) level of basement car parking.
Date of receipt:	15 November 2021
Applicant:	HB & B Property Pty Ltd
Owner:	HN & B Property Pty Ltd
Property owned by a Council employee or Councillor:	The site is not known to be owned by a Council employee or Councillor
Political donations/gifts disclosed:	None disclosed on the application form
Submissions received:	20 unique submissions
Recommendation:	Refusal
Assessment Officer:	Alicia Hunter

Legislative Requirements

Relevant provisions considered under section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979	<ul style="list-style-type: none">• State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004• State Environmental Planning Policy (Biodiversity and Conservation) 2021• State Environmental Planning Policy (Resilience and Hazards) 2021• State Environmental Planning Policy (Transport and Infrastructure) 2021• Parramatta (former The Hills) Local Environmental Plan 2012 (PLEP 2012)• The Hills Development Control Plan 2021 (HDGP 2021)• Draft Parramatta Local Environmental Plan 2020 (DLEP 2020)
Zoning	R2 Low Density Residential
Bushfire Prone Land	No
Heritage	No
Heritage Conservation Area	No
Designated Development	No
Integrated Development	Yes, under Section 91 of the Water Management Act 2000.
Clause 4.6 variation	No
Delegation	Parramatta Local Planning Panel (PLPP) due to number of objections

1. Executive Summary

Development Application DA/1057/2021 was lodged on 19 November 2021 for the demolition of existing structures, tree removal and construction of a part two (2) and part three (3) storey residential care facility (Seniors Housing) comprising of 110 beds with one level of basement parking on land at 43 - 47 Murray Farm Road, No. 13 and No. 19 Watton Road NSW 2118. Associated civil engineering, earthworks and landscaping is also proposed.

The site is located on land zoned R2 Low Density Residential under the Parramatta (former The Hills) Local Environmental Plan 2012 (LEP 2012) and subject to a 9m height limit under the LEP 2012. A maximum height limit of 8m pursuant State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies to the development type proposed. The properties do not contain any heritage items and are not mapped as containing any areas of biodiversity or bushfire prone land under the PFHLEP 2012. The site is also not subject to any FSR control under PFHLEP 2012.

The application is made pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP), which permits development for the purposes of housing for older people or people with disabilities on land within the R2 Low Density Residential zone.

Note: The Seniors SEPP was repealed on 25 November 2021. The State Environmental Planning Policy (Housing) 2021 was published and came into effect on 26 November 2021. Schedule 7A (Savings and Transitional Provisions) states that, the Housing SEPP 2021 does not apply to a Development Application made, but not yet determined, on or before the commencement date.

Development Application DA/1057/2021 was lodged with Council on 15 November 2021. Therefore, this application is subject to the Seniors SEPP 2004.

In accordance with the Parramatta Notification Plan the Development Application was notified and advertised between 1 December 2021 and 11 January 2022 and again from 11 January 2022 to 9 February 2022. Twenty-four (24) submissions were received objecting to the proposal, with twenty (20) of those being unique. Key concerns raised in the submissions are as follows:

- The proposed development is not permissible
- The proposal is not consistent with the character of the Low Density Zone and the surrounding area
- The site is not suitable for the proposed development
- Non-compliance with relevant Development Standards
- Unacceptable bulk and scale impacts for neighbouring properties
- Unacceptable streetscape impacts
- Visual and aural amenity impacts for neighbouring properties
- Unacceptable increase in traffic movements and congestion
- Amenity concerns for future residents (solar access)
- Amenity concerns for future residents (subterranean environment)
- Concerns with the proposed loading dock and access to this area
- Excessive excavation
- Flooding
- Extensive tree removal
- Impact to the existing water course
- Inaccurate and inconsistent documentation
- Safety concerns for future residents
- Land contamination and
- Proximity to other Residential Care Facilities.

In accordance with the Environmental Planning and Assessment Act 1979, Section 9.1 – Directions by the Minister, this application is reported to the Parramatta Local Planning Panel for determination as it is a contentious development, having received greater than ten (10) submissions.

Section 4.15 Assessment Summary

On 9 March 2022, Council wrote to the applicant raising concerns relating to:

- neighbourhood amenity, residential character and streetscape as a result of the proposed built form;

- the proposed bulk and scale of the building and proposed retaining walls;
 - building height noting that the proposed building is part two (2) and part three (3) storeys;
 - non-compliance with landscaped area; and
- amenity for future residents, specifically, the provision of adequate daylight to main communal living areas and residential units. This concern was also raised by Council's Design Excellence Advisory Panel.

Council's Design Advisory Excellence Panel, Accessibility Officer, Urban Designer, Social Planner, Civil Assets Engineer and Landscape Architect raised concerns which are detailed in Section 6 of this report.

On 21 April 2022, the applicant submitted amended plans and documentation in response to the issues identified by Council. On 19 April 2022 the applicant commenced Class 1 proceedings in the Land and Environment Court (LEC) by appealing against the "deemed refusal" of this application. Council advised the applicant that due to the commencement of Class 1 proceedings, the amended plans and documentation would not be accepted.

Notwithstanding this, a review of amended plans and documentation was undertaken, and it is noted that Council's fundamental concerns have not been addressed by the amended proposal.

The proposal is not considered to be consistent with the requirements of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, the Parramatta (former The Hills) Local Environmental Plan 2012 (PFHLEP 2012), as well as with key development controls contained within the Hills Development Control Plan 2012.

Further, the subject site is not a suitable location for the development of a residential care facility (Seniors Housing) of this scale as the site cannot accommodate required services and facilities to enable efficient and safe operation of the use without causing further impacts on the amenity of surrounding properties.

Having regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, it is recommended Development Application No. DA/1057/2021 be refused. The reasons for refusal are included in **Attachment 1**.

2. Site Description and Conditions

The subject site consists of three lots and is legally known as Lot 1 DP210512, Lot 16 DP238510 and Lot 6 DP259726 and is also known as 43 - 47 Murray Farm Road, 13 Watton Road and 19 Watton Road, Carlingford. The site is irregular in shape, with a 50.29m frontage to Murray Farm Road to the south and 46.12m frontage to Watton Road to the north. The site area has a total area of 7,063.94m² and has a cross fall of approximately 9m from the front south-eastern corner (Murray Farm Road) to the rear (Watton Road) north-western corner of the site.

The site contains several significant trees and mature vegetation. A high voltage power corridor runs across the south-east corner of the site.

Currently, the site is occupied by a dwelling house and previous bus depot structures. Historically, the site was used by the Liverpool Bus Service as a bus depot. Remediation works have previously been carried out pertaining to the southern side of the site to remove fuel tanks.

To clarify the location of the application site and specifically that of the subject site, refer to the aerial image and photographs in **Figures 1 - 6** below.



Figure 1: Aerial view of the subject site and surrounds. Subject site outlined in red. Source: Nearmap: April 2022.



Figure 2: Subject site as viewed from Murray Farm Road (eastern corner). Source: Site Inspection.



Figure 3: Subject site as viewed from Murray Farm Road (eastern corner). Source: Site Inspection.

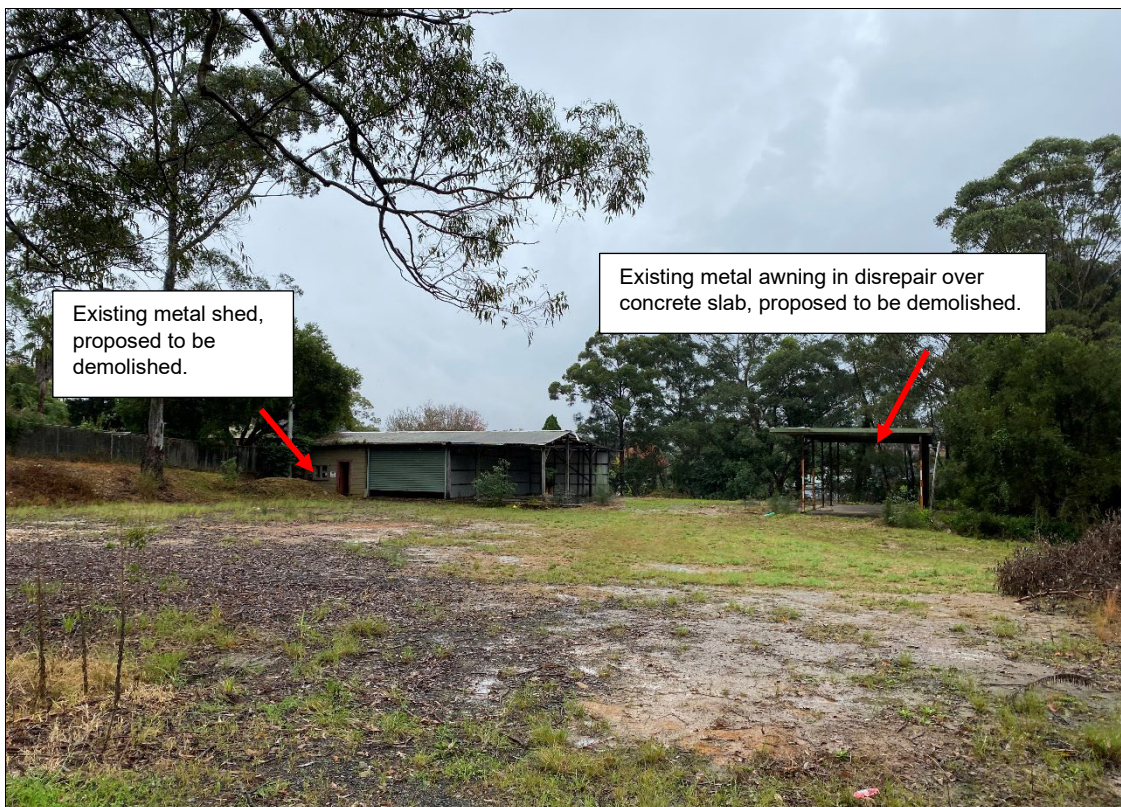


Figure 4: Looking North from Murray Farm Road. Source: Site Inspection.



Figure 5: 13 Watton Road, Carlingford. Source: Site Inspection.



Figure 6: 19 Watton Road. Source: Site Inspection.

Part of the site is subject to flooding by 1% AEP and PMF floods. The 1% AEP flooded area as shown below in **Figure 7** does not significantly impinge on No. 43- 47 Murray Farm Road but substantially inundates No. 19 Watton Road.

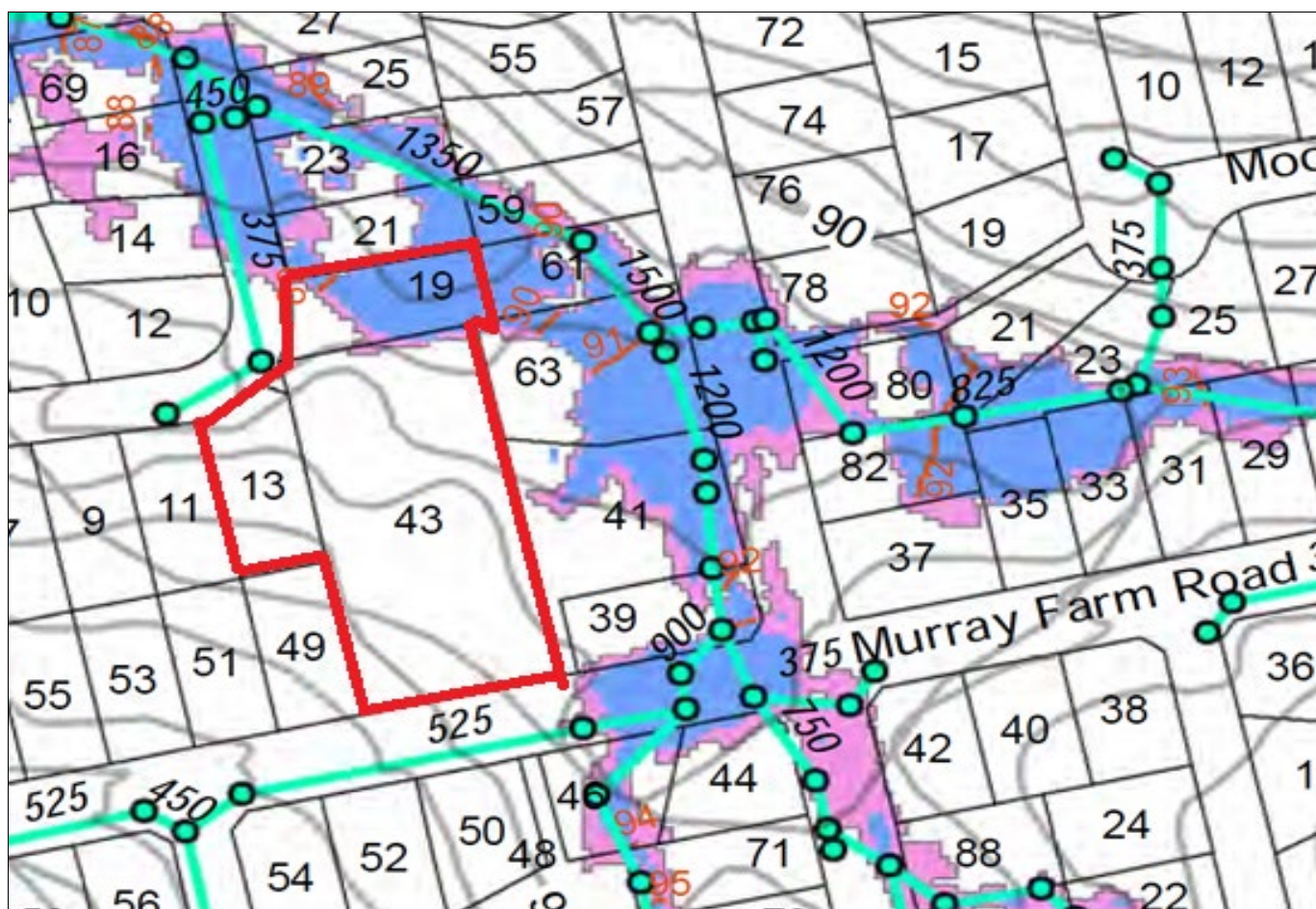


Figure 7: Council Flood Map showing 1% AEP flood extent. Subject site outlined in red.

Surrounding Development

The surrounding locality is primarily zoned R2 Low Density Residential, supporting detached single dwellings. The site is surrounded by older style detached style single and two storey dwelling houses. Immediately opposite the Murray Farm Road frontage is a pathology laboratory (see **Figure 8**). A neighbourhood shopping centre containing a pharmacy, bakery and a number of small cafes/restaurants is located approximately 160m from the site on Carmen Drive, Carlingford (see **Figure 9**). Carmen Drive Reserve is located directly opposite the neighbourhood shops (See **Figure 10**).



Figure 8: Pathology Laboratory, adjacent to the Murray Farm Road frontage. Source: Google Maps.



Figure 9: Neighbourhood Shops, Carmen Road, Carlingford. Source: Google Maps.



Figure 10: Carmen Drive Reserve. Source: Site Inspection

3. Relevant Site History

Development Application DA/85/2019

Development Application DA/85/2019 for the demolition of existing structures, tree removal and construction of a part two (2) part three (3) and part four (4) storey residential care facility (Seniors Housing) comprising of 120 beds with one level of basement car parking was refused by the Sydney Central City Planning Panel on 11 May 2020. The reasons for refusal have been summarised below:

1. *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004,*
 - a. *the site analysis does not adequately address the privacy of the adjoining properties by failing to identify location of balconies and windows overlooking the site.*
 - b. *the proposed development does not maintain a reasonable neighbourhood amenity and appropriate residential character by failing to adopt a building height that is compatible in scale with adjacent developments.*
 - c. *, the proposed development fails to maintain a reasonable visual privacy of neighbours in the vicinity of the development.*
 - d. *the proposed development fails to provide adequate solar access to the living areas and private open space for the future residents of the Residential Care Facility. Poor cross ventilation is also provided for the proposed residents.*
 - e. *the proposed development is inconsistent with the intent of the safety measures under Clause 37*
 - f. *the proposed development is not suitably located and designed to be consistent with the objective of Clause 40*
 - g. *the proposal will result in a building height of 12.6m exceeding the maximum building height by 4.6m (57.5%). The variation under the provisions in Clause 4.6 of Parramatta (former The Hills) LEP 2012 is not supported.*
 - h. *the proposal breaches the number of storeys control stipulated under Clause 40.*
 - i. *the FSR is greater than the maximum and the density and scale is excessive.*
2. *Parramatta (former The Hills) Local Environmental Plan 2012,*
 - a. *the subject application fails to provide an orderly and sustainable built environment that is compatible within the local context of the area.*
 - b. *it does not satisfactorily maintain the existing low density residential character of the area.*
3. *The development would result in an adverse environmental and amenity impact on the surrounding built environment as the proposal would result in adverse visual and overshadowing impacts and not be consistent with the existing streetscape.*

4. *The proposal fails to satisfy the relevant considerations for suitability of the site, built environment, and the public interest.*
5. *The proposal fails to satisfy the relevant considerations under Section 4.1S(l)(e) Environmental Planning and Assessment Act 1979 in that the adverse impacts by the development due to non-compliance with the applicable planning controls are not beneficial for the local community and as such, are not in the wider public interest.*

The determination was subsequently challenged within the Land and Environment Court (LEC) via a Class 1 appeal (NSWLEC 1393). The LEC dismissed the Appeal, and the application was refused.

Land and Environment Court Judgement

Determination of Development Application DA/85/2019 was subsequently challenged within the Land and Environment Court (LEC) via a Class 1 appeal (NSWLEC 1393). The Judgement concluded the following:

52. SEPP Seniors seems to have two principal concerns of relevance here. First is in regard to increasing the supply of housing for seniors and people with a disability in well located areas, including the frail and those needing special care, a group particularly targeted with this proposal. Second is that of encouraging good design, including that built form responds to its setting. The interrelationship seems to me to be important. That is, that this increase to supply, which includes the overriding of local planning controls (in this instance a prohibition to the use in the R2 Low Density Residential zone), goes hand in hand with a requirement for design responsiveness.

53. The proposal proffers a significant level of additional supply of seniors housing and, in particular, that relating to residential care. This is of public interest. An excerpt from the Central City District Plan, prepared by the Greater Sydney Commission, was tendered into evidence as Ex H. Exhibit H indicates significant growth in seniors population, including in the general environs of the site:

“A 183 per cent proportional increase in people aged 85 and over, and a 95 per cent increase in the 65–84 age group, is expected by 2036. This means 16 per cent of the District’s population will be aged 65 or over in 2036, up from 11 per cent in 2016. Parramatta and The Hills local government areas have the largest projected growth in the 65 to 84 age groups.”

54 Exhibit H also references an expected increased demand for local aged care facilities, including for people with dementia and “the frail aged”, groups which might benefit from the services of facilities such as proposed here.

55 There is considerable attention to the question of compatibility with neighbouring development in the matters warranting consideration under SEPP Seniors. While points of attention are cl 33 and 34 (see [18]), and whether “adequate regard” has been given to neighbourhood amenity and streetscape and “visual and acoustic privacy”, as itemised; there is also a need, mindful of cl 29 and as detailed at [15] to take into consideration the “impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing (land) uses”.

56. There are many intricacies to the design of the proposal, and some successes in relation to architectural and landscape details when ambitions to supply residential care accommodation are concerned. But as foreshadowed in Project Venture (at [25]), the impact of the proposal on the amenity of 49 Murray Farm Road can be relatively objectively assessed. In this instance, it seems to me there would be a severe impact on the amenity enjoyed at 49 Murray Farm Road as a consequence of the more or less complete enclosure of the rear and eastern side of the property by the proposed development. The sense of openness in the rear yard would be almost entirely lost.

57. Of particular importance here, I am not convinced that design changes which give more sympathetic regard to the amenity of 49 Murray Farm Road are not available without unduly prejudicing the supply of residential care accommodation. In turn, it seems to me that adequate regard has not been given to neighbour amenity and the proposal is not consistent with the ambitions of SEPP Seniors in its current form.

58 In closing submissions, the Applicant offered me the opportunity of lowering, or otherwise controlling, the landscape if I was concerned about its density. Unfortunately, it is not as easy as this, as the proposed landscaping is essential as a mitigation treatment for the proposed unbroken building presentation which would otherwise be apparent from the rear of 49 Murray Farm Road.

The Court ordered that the appeal be dismissed and that Development Application DA/85/2019 for a seniors housing development at 43-47 Murray Farm Road and 13-19 Watton Road, Carlingford is refused.

4. The Proposal

Development Application DA/1057/2021 was lodged on 15 November 2021 for the construction of a part two (2) and part three (3) storey residential care facility (Seniors Housing). Specifically, the application seeks approval for:

- Enabling works which comprise:
 - Demolition of all existing structures on site including single storey brick dwelling house, in-ground swimming pool, metal shed and existing depot structures
 - Earthworks to create a level building platform and enable the construction of the basement
 - Removal of 23 of the 52 trees throughout the site
- Construction of a part two (2) and part three (3) storey residential care facility (Seniors Housing) comprising:
 - Associated basement parking and vehicular access comprising 24 car parking spaces and loading dock and waste facilities
 - 110 age care beds including communal living, dining and lounge areas
 - Associated landscaping works including, communal open space garden pavilion.
- Associated civil engineering and public domain works.

No signage is proposed as part of this Development Application.

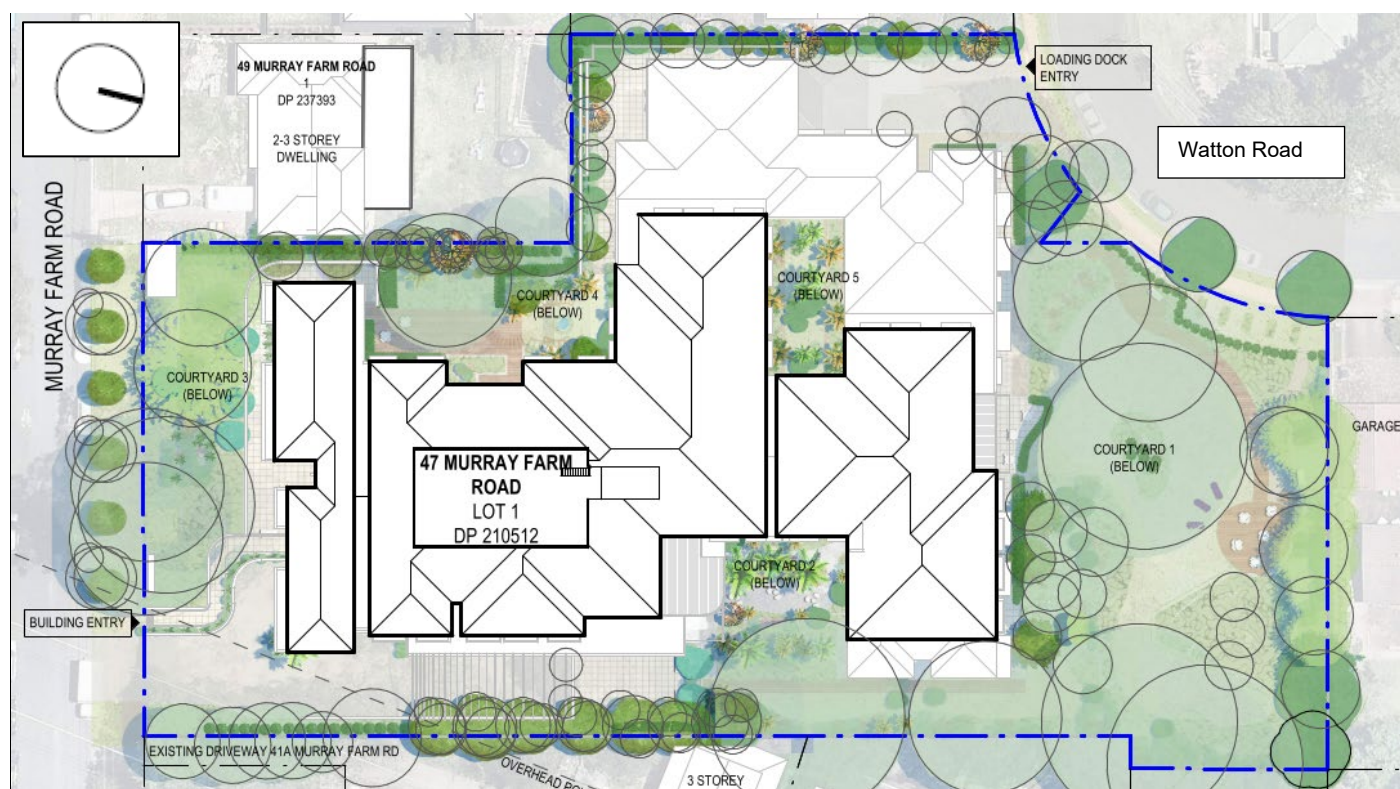


Figure 11: Proposed Site Plan.



Figure 12: Photomontage. As viewed from Murray Farm Road. Source: Thomson Adsett.



Figure 13: Photomontage. As viewed from Watton Road. Source: Thomson Adsett.

Enabling Works

The application includes the demolition of all existing structures on site including single storey brick dwelling house, in-ground swimming pool, metal shed and existing depot structures.

Associated earthworks to create a level building platform and enable the construction of the basement are also proposed. This will result in up to 6.5m in cut throughout the site. A total volume of 14,022m² of soil is proposed to be removed.

Tree Removal

The application proposes to remove 23 of the 48 trees on the subject site, and one (1) tree within the public domain along Watton Road.

The trees proposed to be removed are located toward the south western corner of the site and along the eastern and northern boundaries as shown in red in **Figure 14**.

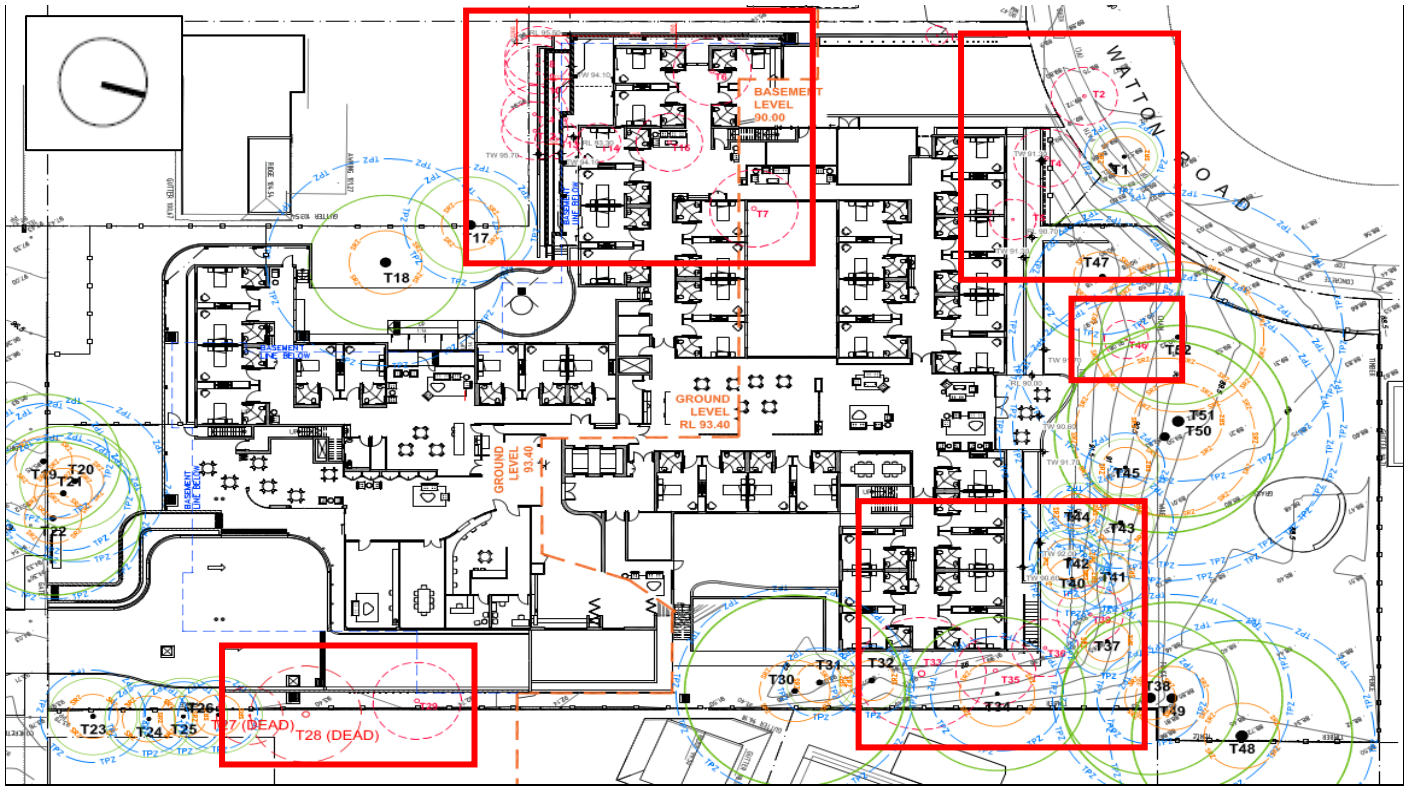


Figure 14: Tree Retention and Removal Plan. Trees proposed to be removed outlined in red. Source: TaylorBrammer

Substantial replacement planting is proposed as detailed later in this report.

It is noted that the application proposed to remove three (3) trees which are located on the adjoining property to the east (Trees 27, 28 and 29). This cannot be achieved as part of this Development Application. Council's Landscape Architect has inspected these trees and has advised that they are in poor health and can be removed as exempt development with the consent of the adjoining landowner. A separate Service Request has been raised to advise the respective owners of this.

Basement

The application proposes the construction of a one (1) storey basement car park comprising 24 car parking spaces, including one (1) accessible spaces toward the southern end of the site (see **Figure 15**). Associated plant rooms and laundry areas are also proposed. Vehicular access is achieved from Murray Farm Road.

Pedestrian access from the basement is proposed to be achieved via directly to the lower ground floor of the residential care facility.

A loading dock including plant rooms, waste and maintenance rooms as well as an ambulance bay is proposed to be located toward the western portion of the site (see **Figure 15**). Vehicular access to this area is achieved via Watton Road. A pergola structure over the entrance to the loading dock is also proposed.

Pedestrian access to the lower ground floor to the lower ground floor is also proposed.

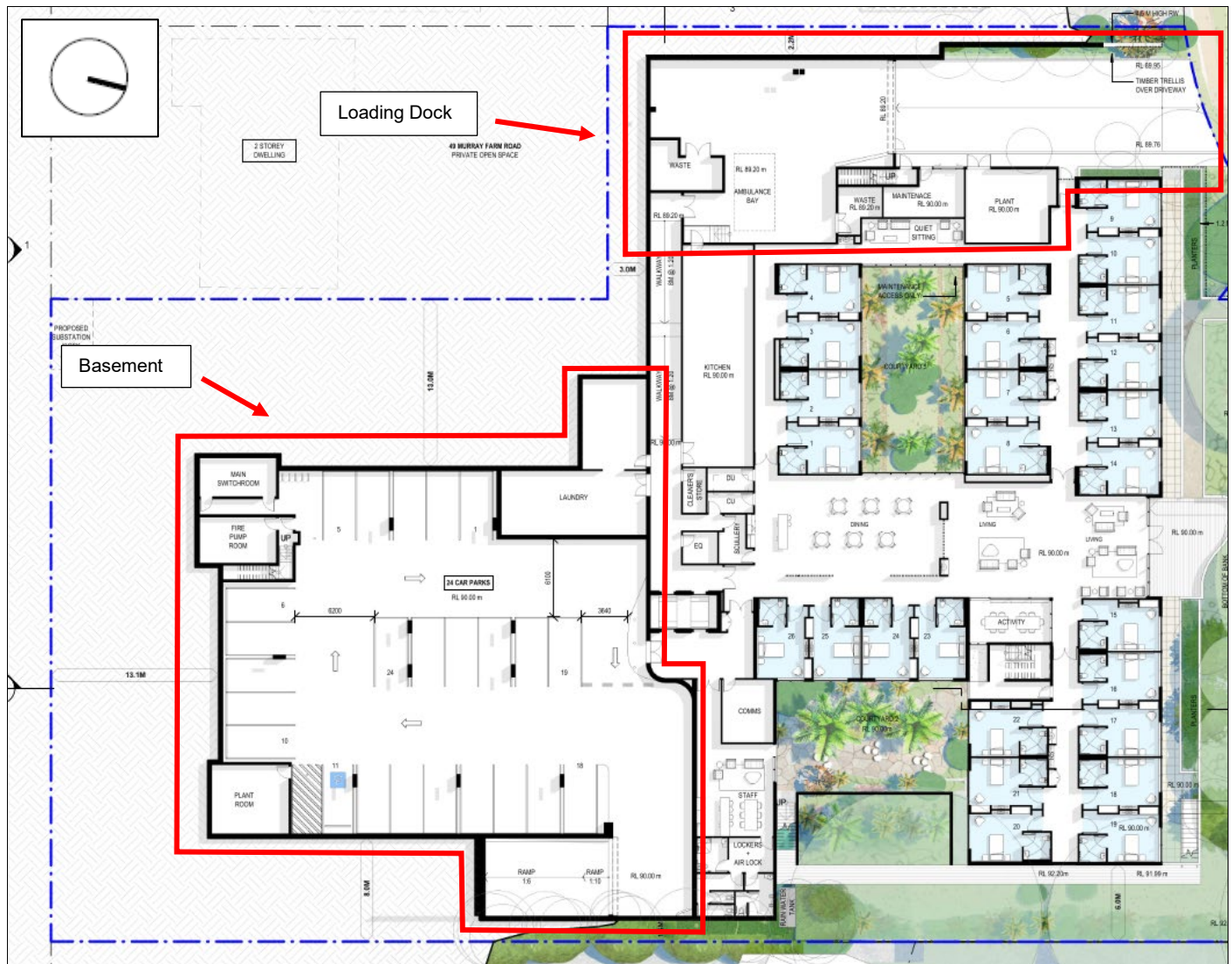


Figure 15: Proposed basement and loading dock. Outlined in red. Source: Thomas Adsett.

Lower Ground

The lower ground floor (see **Figure 16**) of the proposed seniors housing will comprise:

- 26 single resident rooms
- Communal living and dining area
- Activity room
- Internal courtyard
- Access to an external (eastern) courtyard
- Access to the rear landscaped area
- Lift and stair access to upper floors
- Kitchen facilities
- Utility areas
- Staff amenities and lockers

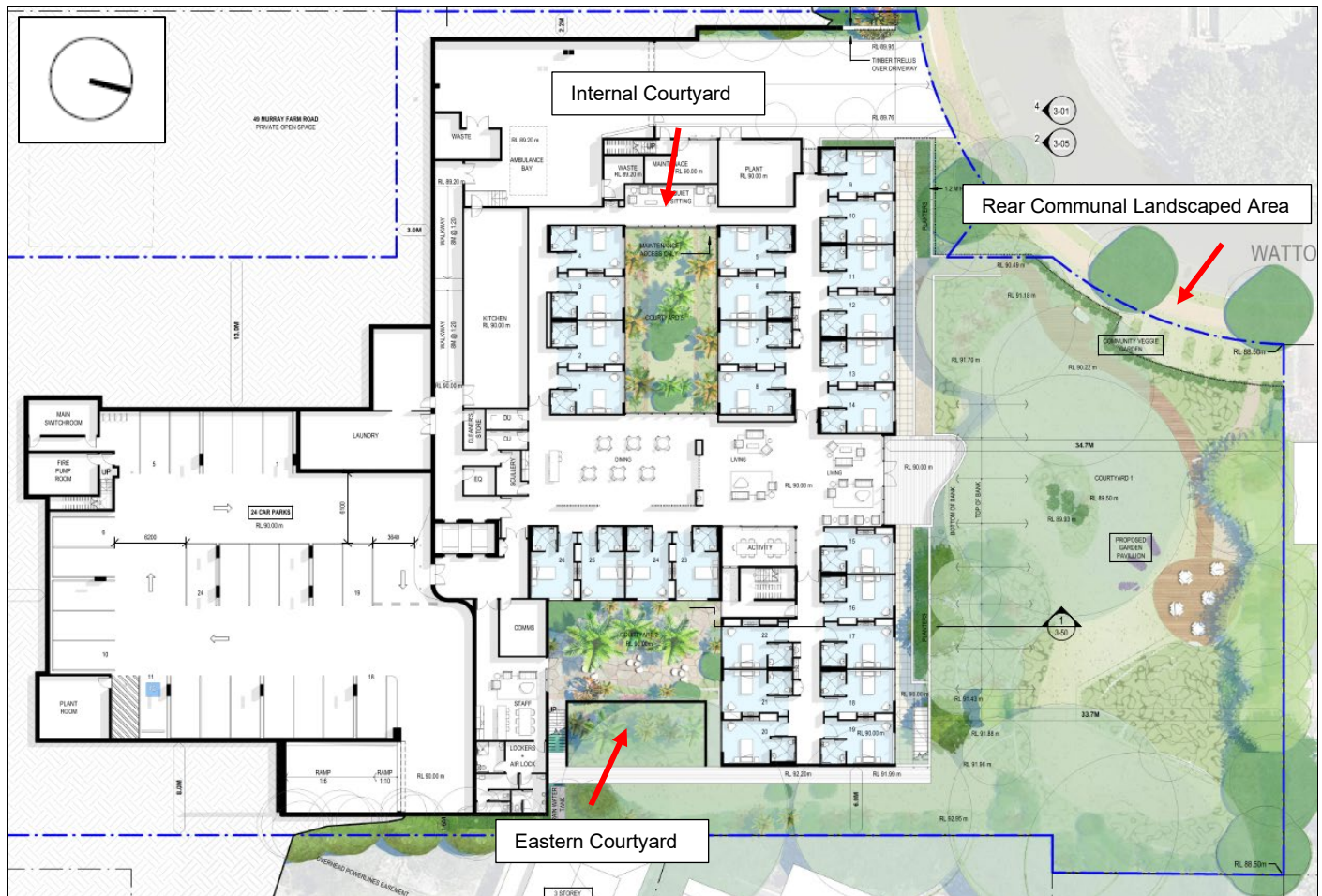


Figure 16: Proposed lower ground floor. Source: Thomas Adsett.

Ground Floor

The ground floor (see **Figure 17**) of the proposed seniors housing will comprise:

- 46 single resident rooms
- Communal living and dining area with a north facing balcony to the communal outdoor area
- Lounge area
- Café
- Hair salon
- Activity and wellness rooms
- Access to the western courtyard
- Reception and lobby
- Administration offices
- Lift and stair access to upper/lower floor
- Utility areas and servery

Pedestrian access is also provided via a pathway from Murray Farm Road to the ground floor entrance of the proposed facility. A porte-cochere provides a vehicle pick up and drop off area.



Figure 17: Proposed Ground Floor Plan. Source: Thomson Adsett.

Level One (1)

The ground floor (see **Figure 18**) of the proposed seniors housing will comprise:

- 38 single resident rooms
- Communal living and dining areas with balcony access facing the northern and eastern boundaries
- Lounge area
- Activity rooms
- Access to the western courtyard
- Lift and stair access to lower floors
- Utility areas and servery



Figure 18: Proposed Level One (1) Plan. Source: Thomson Adsett.

Landscape Works

The application proposes extensive landscape works throughout the site (see **Figure 19**). The proposed landscape scheme includes:

- Planting of 104 mature trees throughout the site
- Planting of shrubs and ground covers throughout the site
- Hedge planting 2m in height along the south-western and western boundaries of the site.
- Construction of a communal open space area toward the rear of the site containing mature planting, pathway links, sitting areas with shading and a communal vegetable garden
- Installation of courtyards containing sitting areas, decking and shaded spaces throughout the site.

Retaining walls 1.7m – 2m in height are proposed at ground level along the south-western and western boundaries of the site.



Figure 19: Proposed Landscape Scheme. Source: TaylorBrammer

Public Domain Works

The application proposes to construct a pedestrian footpath along a portion Murray Farm Road and Oakes Road and reconstruct the pedestrian ramp at the refuge island (identified in blue in **Figure 20**).

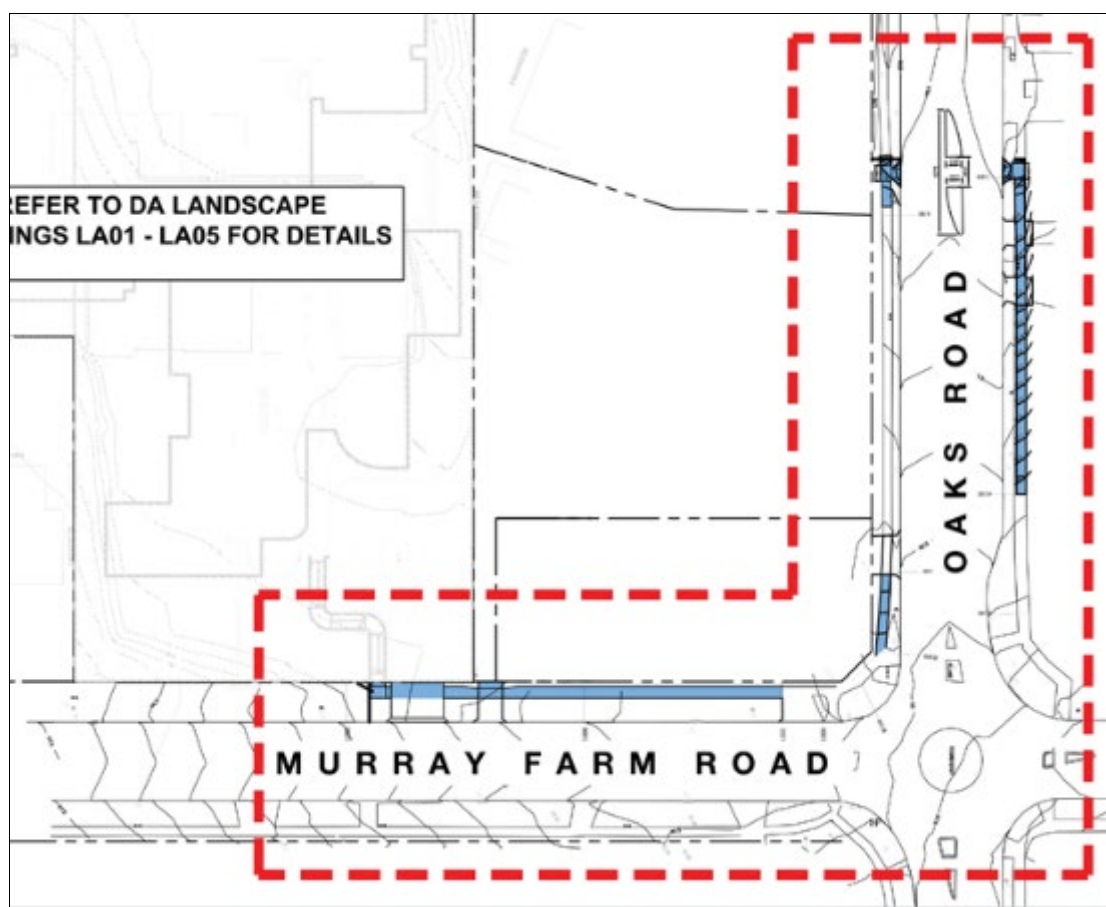


Figure 20: Proposed Public Domain Works. Extent of works coloured in blue. Source: TaylorBrammer.

Amended Plans and Documentation

On 21 April 2022, the applicant submitted amended plans and documentation in response to the issues identified by Council. On 19 April 2021 the applicant commenced Class 1 proceedings in the Land and Environment Court (LEC) by appealing against the “deemed refusal” of this application. Council advised the applicant that due to the commencement of Class 1 proceedings the amended plans and documentation would not be accepted.

Notwithstanding this, a review of amended plans and documentation was undertaken, and it is noted that no significant amendments are proposed which alter the description detailed above.

5. Relevant Application History

Date	Comment
18 November 2021	Subject Development Application lodged to Council.
1 December 2021	In accordance with the Parramatta Consolidated Notification Procedures the Development Application was notified and advertised between 1 December 2021 and 11 January 2022 and again from 11 January 2022 to 9 February 2022. Twenty-four (24) submissions were received objecting to the proposal, with twenty (20) of those being unique.
9 March 2022	Council wrote to the applicant raising concerns relating to: <ul style="list-style-type: none">• neighbourhood amenity, residential character and streetscape as a result of the proposed built form;• the proposed bulk and scale of the building and proposed retaining walls;• building height noting that the proposed building is part two (2) and part three (3) storeys;• non-compliance with landscaped area; and

	<ul style="list-style-type: none"> amenity for future residents, specifically, the provision of adequate daylight to main communal living areas and residential units. This concern was also raised by Council's Design Excellence Advisory Panel.
19 April 2022	The applicant commenced Class 1 proceedings in the Land and Environment Court (LEC) by appealing against the "deemed refusal" of this application.
21 April 2022	<p>The applicant submitted amended plans and documentation in response to the issues identified by Council. On 19 April 2022 the applicant commenced Class 1 proceedings in the Land and Environment Court (LEC) by appealing against the "deemed refusal" of this application. Council advised the applicant that due to the commencement of Class 1 proceedings, the amended plans and documentation would not be accepted.</p> <p>Notwithstanding the appeal, a preliminary review of these amended plans and documents were reviewed in the interest of avoiding an appeal, however these amended plans did not address the concerns raised on 9 March 2022 in any substantive way.</p>

6. Referrals

The application was considered by Design Excellence Advisory Panel (DEAP) at a meeting on 24 February 2022. The panel was supportive of the application in its current form, issuing the design a Green Light, and provided the following advice:

- This large site is located in a R2 Low Density Residential zone and spans two street frontages. The site is significantly constrained by a significant cross fall, large established trees and existing low scale detached dwellings located very close to side boundaries. A previously proposed residential aged care facility (RACF) containing 120 beds was rejected by the Sydney Central Planning Panel in May 2020 and by the Land and Environment Court (LEC) in July 2021; while acknowledging its permissibility of use, the LEC's reasons for refusal included issues relating to "neighbourhood amenity and streetscape", visual and acoustic privacy" and impacts on specific adjoining properties.*
- The revised proposal incorporates a number of significant built form amendments, designed to address issues raised by the LEC. These amendments (resulting in a reduction of 10 beds) include :*
 - Reduction and lowering of built form to the western wing to reduce visual bulk*
 - Setting back western elevation and rotation of rooms to enhance privacy*
 - Adjustment of Watton Road elevation to enhance compatibility with existing streetscape scale and character*
 - Further articulation and refinement of the built form generally*
- Given the complexity of context, the sloping site (including established trees), programme, multiple interfaces and planning history, the Panel chose to assess the design quality and amenity of the revised proposal by asking the applicant to address key concerns raised by Council staff. These issues were methodically examined in detail by the Panel, with extensive reference to landscape sections, revised architectural drawings and visualisations and discussed at length with the Applicant, the Architect and the Urban Design consultant, who had prepared a comprehensive report. These key concerns include:*
 - Compatibility with context*
 - Suitability of use*
 - Excessive bulk and scale – especially as viewed from adjacent properties*
 - Visual amenity impacts on adjoining properties – including "enclosure" and reduction of outlook*
 - Privacy impacts on adjoining properties – especially across side setbacks*
 - Overshadowing impacts on adjoining properties*
 - Breaches to developments standards (height, density and number of storeys)*
 - Poor internal amenity and inadequate solar access*
 - Safety, especially relating to the drop off area from Murray Farm Road*
- After extensive examination of the amended built form, especially its landscaped setbacks, key interfaces, privacy measures, internal layout, courtyards and the relationship of the proposal to streetscape and adjoining properties, the Panel is satisfied that the proposal does generally achieve compatibility with context and streetscape; acceptable visual and acoustic privacy alongside boundaries; a minimisation of visual bulk and shadow impacts to adjoining properties; an appropriate scale and density for the site; high quality landscape*

treatment of all interfaces and communal open spaces; and a high standard of internal amenity. The Panel is concerned however that the following issues require further refinement and/or explanation to achieve approval.

5. *Some living and dining spaces within the layout (including central dining space on lower ground; south and north living spaces on ground level; and central southern living space on level one) may require further design modification to facilitate acceptable solar access, natural ventilation and/or outlook. Further clarification is required (by way of section, plan and internal views) to demonstrate currently proposed and – where required – amended strategies to achieve high level amenity to these key communal spaces.*
6. *The pergola and retaining wall adjacent to the site's northwest corner appear potentially intrusive on the visual amenity provided by the Watton Road street setback (see photomontage 4, DA9-13). It is therefore recommended that the pergola is cut – perhaps to align with the slot on the adjacent RACF built form's west façade – and the retaining wall redesigned to be less prominent. This could include terminating the wall further south to better align with the adjacent slope and reducing its apparent height.*
7. *The proposed main entry is via a 1:14 access ramp, which provides the only pedestrian route from the public domain. Ideally, entry steps of similar width to the main entry doors, would be located so as to create a clear path of travel; the ramp would be provided for universal access only. The Panel is aware that such an arrangement may not be possible due to slope and vegetation; however, a more amenable and inviting interface is required.*
8. *The Panel recommends that the additional information and required amendments are incorporated into the DA package and returned to Council for discussion. While the proposal should not need to return to the Panel, a review of these amendments could be undertaken electronically.*

The following section outlines the response and conditions recommended from each of the internal and external referrals in relation to the subject application.

Note: The below comments are based on the plans and documentation submitted at the time of lodgement of this Development Application. Notwithstanding this, a review of amended plans and documentation was undertaken, and comment has been provided with respect to any amendments made.

Referral	Comment
Catchment Engineer	<p>Not supported. Council's Development Engineer reviewed the proposal and has advised the proposal does not satisfy the stormwater requirements of Council's controls. The following is noted:</p> <ul style="list-style-type: none"> <i>Investigations indicate that in its current location the On-site Detention System (OSD) would not be able to function in the 1% AEP storm event.</i> <i>The proposed basin is located at the property boundary, and any overflows will be directed onto the private property downstream. All systems shall be designed with consideration to the major/minor system design principle in Australian Rainfall & Runoff, allowing for overflows of the piped system and flows in excess of the piped system capacity to be discharged in a controlled manner in the same direction as the pipe to a legal point of discharge. The proposed stormwater system does not comply with the major storm principles as the lowest point on-site is towards 21 Watton Road.</i> <i>The area between the existing embankment and lower ground floor level will be a low trapped point and rely only on the pit and pipe system. The low trapped point shall be removed from the proposal, and stormwater pits and pipelines should not be located within habitable spaces.</i> <i>There is an inconsistency between the flood report and the proposed architectural plans. As per the flood report, the basement floor is at 91.3m AHD and the architectural plans dated 10/12/2021 show the lower ground floor level to be at 90.00m AHD.</i> <p>Note: The abovementioned comments were received on 20 April 2022, after the Class 1 appeal had been lodged. As such, the applicant was not given the opportunity to address the concerns raised.</p>
Social Outcomes	<p>Plans and Documentation as Lodged:</p> <p>Unsatisfactory, additional information requested. Specifically, Council's Social Outcomes Team has requested clarification regarding the day-to-day operations of the proposed facility, and</p>

	<p>that the Plan of Management be updated with these details, as well as a detailed Evacuation Plan.</p> <p>Additional Information: Not satisfied. Insufficient information provided addressing the matters raised.</p>
Tree and Landscape	<p>Plans and Documentation as Lodged: Unsatisfactory. Additional information was requested regarding inconsistencies on the submitted landscape plan, a lack of detail relating to proposed planting species, and their location. Concern was also raised regarding the submitted Arborist report, its findings, classification of trees within the site and the submitted tree protection plan.</p> <p>Additional Information: Not satisfied. Insufficient and incomplete information was provided with regard to the landscape plan addressing the matters raised.</p> <p>Note: On 17 March 2022 the applicants Arborist submitted additional information relating to matters raised with regard to the submitted Arborist report, its findings and classification of trees within the site. An amended tree protection plan was also submitted. Council's Landscape Tree Management Officer reviewed the additional information and is satisfied that all concerns raised with regard to the submitted Arborist report have been adequately addressed.</p>
Urban Design (Accessibility)	<p>Plans and Documentation as Lodged: Unsatisfactory, additional information has been requested. Council's Accessibility Officer has requested additional information demonstrating compliance with Clause 26 of the SEPP, as well as relevant Australian Standards.</p> <p>Additional Information: Partially satisfied. Applicant has requested that remaining matters be dealt with via condition of consent.</p>
Urban Design (Built Form)	<p>Plans and Documentation as Lodged: Unsatisfactory, additional information has been requested regarding the proposed built form. Specifically, Council's Urban Designer has requested:</p> <ul style="list-style-type: none"> • <i>Recess the 3rd storey generously to present as a 2 storey building when viewed from the street and neighbouring properties</i> • <i>Retaining wall heights are to be reduced to ensure that the ground floor apartments receive solar access and the outlook is improved for residents</i> • <i>Redesign the courtyards to allow for sun in winter and shade in summer</i> • <i>Locate the accessible main entry from Murray Farm Road away from the driveway to create a greater sense of entry</i> • <i>Provide an accessible pedestrian access from Watton Road into the facility away from the driveway</i> • <i>Locate the living area on level one near a window/openable glass doors for natural light and fresh air.</i> <p>Additional Information: Not satisfied. Insufficient information provided addressing the matters raised.</p>
Civil Assets	<p>Plans and Documentation as Lodged: Unsatisfactory, additional information has been requested. Council's Civil Assets Engineer has requested additional information requesting amended civil plans and public domain documentation be provided.</p> <p>Additional Information: Not satisfied. Applicant has requested that remaining matters be dealt with via condition of consent.</p>
Transport and Traffic Engineer	Supported, subject to conditions of consent.
Quantity Surveyor	Proposed costing is satisfactory.
Open Space & Natural Areas	Supported, subject to conditions of consent.

Environmental Health (General)	Supported, subject to conditions of consent.
Environmental Health (Acoustic)	Supported, subject to conditions of consent.
Environmental Health (Waste)	Supported, subject to conditions of consent.
Environmental Health (Contamination)	Supported, subject to conditions of consent.
Building Surveyor	Referral comment not provided.

External Referrals

Referral	Comment
Water NSW	Water NSW reviewed the proposal and requested additional information with regard to the water supply works. A response to the additional information was provided by the Applicant on 23 March 2022. On 5 May 2022 Water NSW provided General Terms of Approval relating to the proposal. No further objections were raised.
Endeavour Energy	Endeavour Energy has reviewed the proposal and has raised no objections subject to appropriate conditions of consent
Sydney Water	Sydney Water has reviewed the proposal and has raised no objections subject to appropriate conditions of consent

PLANNING ASSESSMENT

7. Water Management Act 2000

In accordance with Section 4.46 of the EP&A Act the application was identified as Integrated Development as per Section 91 of the Water Management Act 2000. As such, the Development Application was referred to Water NSW.

Water NSW reviewed the proposal and requested additional information with regard to the water supply works. Specifically Water NSW requested confirmation that:

- The structures below the predicted highest groundwater table are waterproof (tanked basement) and dewatering management program is designed considering the Minimum requirements for building site groundwater investigations and reporting. Note: Department of Planning, Industry & Environment (DPIE) require the perimeter walls and floor of the basement being constructed using a 'tanked' (waterproof) construction method*

Details regarding the volume of water proposed to be extracted, duration of the water take (during construction) for dewatering and methods proposed were also requested.

A response to the additional information was provided by the Application on 23 March 2022.

On 5 May 2022 Water NSW provided General Terms of Approval relating to the proposal. No further objections were raised.

8. Environmental Planning Instruments

8.1 Overview

The instruments applicable to this application are:

- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Parramatta (former The Hills) Local Environmental Plan 2012 (PLEP 2012)

- The Hills Development Control Plan 2012 (HDCP 2012)
- Draft Parramatta Local Environmental Plan 2020 (DLEP 2020).

Compliance with these instruments is addressed below.

8.2 STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004

The application is made pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP), which permits development for the purposes of housing for older people or people with disabilities on land within the R2 Low Density Residential zone.

This Policy aims to encourage the provision of housing (including residential care facilities) that will:

- Increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
- Make efficient use of existing infrastructure and services, and*
- Be of good design.*

The Policy states that these aims will be achieved by:

- Setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and*
- Setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and*
- Ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes.*

Note: The Seniors SEPP was repealed on 25 November 2021. The State Environmental Planning Policy (Housing) 2021 was published and came into effect on 26 November 2021. Schedule 7A (Savings and Transitional Provisions) states that, the Housing SEPP 2021 does not apply to a Development Application made, but not yet determined, on or before the commencement date. For completeness the relevant provisions of the State Environmental Planning Policy (Housing) 2021 are also addressed below.

The proposal compares to the requirements of the Seniors SEPP in the following manner:

Clause	Requirement	Proposal	Complies
Clause 10	<i>Seniors Housing</i> In this Policy, seniors housing is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of: (a) a residential care facility, or (b) a hostel, or (c) a group of self-contained dwellings, or (d) a combination of these, but does not include a hospital.	The application proposes a residential care facility for a 110 bed Residential Care Facility. The proposal satisfies the definition of seniors housing contains a residential care facility	Yes
Clause 11	<i>Residential Care Facilities</i> In this Policy, a residential care facility is residential accommodation for seniors or people with a disability that includes: (a) meals and cleaning services, and (b) personal care or nursing care, or both, and	The proposed development is for a Residential Care Facility (RCF), which includes the provision of meals, cleaning services and personal care/ nursing care along with furnishing and equipment.	Yes

Clause	Requirement	Proposal	Complies
	(c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility.		
Chapter 3 Development for seniors housing			
Part 1 General			
Clause 15	This Chapter allows the following development despite the provisions of any other environmental planning instrument if the development is carried out in accordance with this Policy: (a) development on land zoned primarily for urban purposes for the purpose of any form of seniors housing, and (b) development on land that adjoins land zoned primarily for urban purposes for the purpose of any form of seniors housing consisting of a hostel, a residential care facility or serviced self-care housing.	In accordance with clause 15, the proposal is permissible development as the site is located on land that is zoned primarily for urban purposes and development for the purpose of dwelling houses is permitted on the site.	Yes
Clause 16	Development allowed by this Chapter may be carried out only with the consent of the relevant consent authority unless another environmental planning instrument allows that development without consent.	The application seeks consent under the State Environmental Planning Policy (Housing For Seniors Or People with a Disability) 2004.	Yes
Clause 17	Development on land adjoining land zoned primarily for urban purposes (1) Subject to subclause (2), a consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land that adjoins land zoned primarily for urban purposes unless the proposed development is for the purpose of any of the following: (a) a hostel, (b) a residential care facility, (c) serviced self-care housing. (2) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purposes of serviced self-care housing on land that adjoins	The land is zoned R2 Low Density Residential and the proposed development will provide for a 110 bed Residential Care Facility. The proposed development is therefore consistent with the definition of a Residential Care Facility.	Yes

Clause	Requirement	Proposal	Complies
	land zoned primarily for urban purposes unless the consent authority is satisfied that the housing will be provided: (a) for people with a disability, or (b) in combination with a residential care facility, or (c) as a retirement village (within the meaning of the Retirement Villages Act 1999).		
Clause 18	Restrictions on occupation of seniors housing allowed under this Chapter: Consent must not be granted to a development application unless a condition reinforcing the above through a requirement to register a restriction to user on the property title has been imposed.	Had the application been recommended for approval, appropriate conditions of consent would have been imposed to assure the development is for the purpose of seniors or people who have a disability.	Yes, subject to conditions
Clause 22 Fire sprinkler systems in residential care facilities for seniors.	Development for the purpose of the installation of a fire sprinkler system in a residential care facility for seniors may be carried out with development consent.	Noted.	Yes, subject to conditions
Part 1A Site Compatibility Certificates			
Clause 24	Site Compatibility Certificates required for certain development applications.	The site is not subject to a Site Compatibility Certificate.	N/A
Clause 25	Application for site compatibility certificate.	The site is not subject to a Site Compatibility Certificate.	N/A
Clause 26(1)	Distance to shops, banks, other retail and commercial services, community services, recreation facilities and the practice of a general medical practitioner is not to exceed 400m.	The nearest facilities and services are located at the at Carmen Drive neighbourhood centre which is located 400m the site. There are two medical practices located within a 400m distance from the site. A medical practice located 20m south of the site on the opposite side of Murray Farm Road and the second medical practice is located around 240 northeast of the site. The neighbourhood centre at Carmen Drive does not contain a bank or a post office, therefore, public transport provisions are required to meet the SEPP requirement.	No due to non-compliance with Clause 26(2) below
Clause 26(2)	Access complies with this clause if— (b) in the case of a proposed development on land in a local government area within the Greater Sydney there is a public transport service available to the	The proposal does not comply with Clause 26(2)(b). The major arterial road in proximity to the site is Oakes Road, which has four bus stops, within 400m of the site, providing regular bus services connecting to Beecroft Railway Station, Carlingford Train Station	No Insufficient information provided

Clause	Requirement	Proposal	Complies
	<p>residents who will occupy the proposed development—</p> <p>(i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and</p> <p>(ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and</p> <p>(iii) that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive),</p> <p>and the gradient along the pathway from the site to the public transport services (and from the public transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).</p>	<p>and the Carmen Drive shopping village.</p> <p>Currently, there is no pedestrian footpath directly fronting the subject site to provide a direct pedestrian link to the bus stops on Oaks Road. As part of this Development Application, it is proposed to construct a new pedestrian footpath along Murray Farm Road to connect to Oaks Road. It is proposed that pedestrian path will connect to the existing path on Oakes Road, which will provide access to the existing bus stop along the western side of Oakes Road.</p> <p>Council's Civil Assets Engineer reviewed the submitted Public Domain documentation and requested additional information regarding compliance with Council's specifications.</p> <p>Note: The applicant did not submit amended documentation demonstrating compliance with Council's specifications. Instead, it was requested that in the event of approval, a condition be imposed requiring compliance. This is not considered a satisfactory response.</p> <p>It is further noted that in the submitted Statement of Environmental Effects, it is indicated that the applicant will reinstate a safety refuge located on Oakes Road. Reinstatement of this refuge will ensure access to the existing bus stops located on the eastern side of Oakes Road. Insufficient and inconsistent detail has been provided in this regard.</p> <p>The reinstatement of the safety refuge was discussed at the previous Land and Environment Court Hearing.</p> <p>A current bus timetable was not submitted as part of the Development Application, however, a search of available transport information indicates that bus services are both to and from the proposed development at least</p>	

Clause	Requirement	Proposal	Complies
		<p>once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive), to the public transport services and from the public transport services and to and from the facilities and services complies with this Clause.</p> <p>The SEPP requires pedestrian pathways to have a gradient of no more than 1:14, however does allow for a pedestrian pathway to be constructed with a gradient of no more than 1:12 for a maximum of 15m at a time, a gradient of no more than 1:10 for a maximum of 5m at a time, and a gradient of no more than 1: for no more than 1.5m at a time.</p> <p>It is proposed to construct the footpath to a gradient exceeding 1:14 for a distance of approximately 20m. Compliance with this part of the control has not been adequately demonstrated.</p>	
Clause 27	Bush Fire Prone Land	The site is not located in a bushfire prone area.	N/A
Clause 28	<p><i>Water and Sewer</i></p> <p>Clause 28 of SEPP (Housing for Seniors or People with a Disabilities) states that Council must not consent to a development application unless satisfied by written evidence that the housing will be connected to a reticulated water system and will have adequate facilities for the removal or disposal of sewerage.</p>	The site is serviced with reticulated water and sewer in accordance with relevant service authority requirements.	Yes
Clause 29	<p><i>Consideration of Site Compatibility Criteria</i></p> <p>This Clause applies to a development application made pursuant to this Chapter to which Clause 24 does not apply. Clause 29 states that the consent authority must take into consideration the criteria referenced in Clauses 25(5)(b)(i), (iii) and (v). Clause 25(5)(b)(i), (iii) and (v) states:</p> <p>(b) is of the opinion that the proposed development is compatible with the surrounding</p>	<p>As stated above, Clause 24 is not applicable to this Development Application. As such, the following is noted:</p> <p>The current character of the neighbourhood is of low density residential in nature, which consists of mainly single and two storey detached dwelling houses. The area is not undergoing a transition and the desired future character under the LEP 2012 is for low-density residential developments.</p>	<p>No</p> <p>The proposed development is not compatible with surrounding land uses</p>

Clause	Requirement	Proposal	Complies
	<p>land uses having regard to (at least) the following criteria—</p> <p>i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,</p> <p>(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,</p> <p>(v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development,</p>	<p>As discussed in Clause 26, insufficient information has been provided to determine compliance with this Clause.</p> <p>The proposed part two (2) and part three (3) storey building does not represent an appropriate bulk and scale that is compatible with the residential streetscape context or the low density character of the area, particularly when viewed from Watton Road. Unreasonable impacts to adjoining and adjacent residential properties will occur as a result of the excessive bulk and scale of the proposal.</p> <p>This portion of the proposed building does not represent an appropriate bulk and scale that is compatible with the residential streetscape context or the low density character of the area, particularly when viewed from Watton Road. Unreasonable impacts to adjoining and adjacent residential properties will occur as a result of the excessive bulk and scale of the proposal. This forms part of the recommendation for refusal.</p>	
Part 3 Design requirements			
Clause 30	<i>Site Analysis</i>	A site analysis was prepared and submitted in accordance with the	No

Clause	Requirement	Proposal	Complies
	<p>Clause 30 of SEPP (Seniors Living) 2004 states that consent is not granted unless a consent authority is satisfied that the applicant has taken into account a site analysis plan prepared by the applicant in accordance with this clause.</p>	<p>requirements of this Clause, however, the submitted documentation was lacking in information.</p> <p>It is noted, that the submitted site analysis advises that the submitted document should be read in conjunction with the Arborist Report, Site Survey, Public Domain and Civil Drawings, Shadow Diagrams and Landscape Drawings.</p> <p>The Statement of Environmental Effects also notes, the site analysis should be read in conjunction with the Urban Design Report. While the submitted site analysis was not entirely prepared in accordance with the requirements of this Clause, an assessment was able to be undertaken.</p> <p>The proposal, as submitted, has failed to take into account the findings of this analysis with regard to the design of the building. Neighbourhood amenity and streetscape concerns are noted and are discussed in this report.</p>	<p>Unsatisfactory design response to site analysis</p>
<p>Clause 33</p>	<p>Neighbourhood amenity and streetscape.</p> <p>The proposed development should:</p> <p>(a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and</p>	<p>The current character of the neighbourhood is of low density residential in nature, which consists of mainly single and two storey detached dwelling houses. The area is not undergoing a transition and the desired future character under the LEP 2012 is for low-density residential developments.</p> <p>The character and scale of proposed development does not achieve the desired outcomes anticipated by the SEPP (Seniors) 2004 nor is it considered to be residential-compatible or small-scale. The subject site is considered to be unsuitable for the proposed facility.</p> <p>The resultant impacts on the local character, streetscape and the public domain interface are such that the proposed development is not considered suitable for the site. This forms part of the recommendation for refusal.</p>	<p>No</p> <p>Excessive scale in low density residential environment</p>

Clause	Requirement	Proposal	Complies
	<p>(b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and</p> <p>(c) maintain reasonable neighbourhood amenity and appropriate residential character by:</p> <p>(i) providing building setbacks to reduce bulk and overshadowing, and</p> <p>(ii) using building form and siting that relates to the site's land form, and</p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and</p> <p>(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and</p> <p>(d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and</p> <p>(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.</p>	<p>The site is not in heritage conservation and not in the vicinity of heritage items.</p> <p>The proposed part two (2) and part three (3) storey building does not represent an appropriate bulk and scale that is compatible with the residential streetscape context or the low density character of the area, particularly when viewed from Watton Road. Unreasonable impacts to adjoining and adjacent residential properties will occur as a result of the excessive bulk and scale of the proposal.</p> <p>The visual presentation of the cavernous basement driveway has perceivable impact on the Watton Road streetscape due to the excessive retaining walls required to support the proposed earthworks. The proposal fails to achieve an appropriate streetscape outcome. The scale of built form elements of the proposal detracts from the existing amenity and character of the area</p> <p>It is considered that spread of the building across the site, and as viewed from Murray Farm Road, has adverse effect on the overall streetscape and character of the area., The overall appearance of the proposed buildings is not in keeping with the character of the Low Density area and the existing environment.</p> <p>For the above reasons, the proposed development is inconsistent with this clause and this issue has been included as a reason for refusal.</p>	<p>N/A</p> <p>No Unacceptable impacts to adjoining residential properties</p>
Clause 34	<p><i>Visual and Acoustic Privacy</i> The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by—</p> <p>(a) appropriate site planning, the location and design of windows and balconies, the use of</p>	<p>With regard to visual and acoustic privacy, it is development has been designed to minimise the likelihood of any adverse overlooking or intrusion of aural privacy of adjoining properties. This has been achieved by providing sufficient setbacks, screening elements</p>	<p>Yes</p>

Clause	Requirement	Proposal	Complies
	<p>screening devices and landscaping, and</p> <p>(b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths</p>	<p>considered that the proposed, and the siting of windows away from shared boundaries.</p> <p>An Acoustic Report, prepared by Acoustic Logic (dated 19 October 2021) was submitted as part of this Development Application. The report concludes:</p> <p><i>Noise emissions from the operation of the facility have been assessed. It is concluded that the facility will not adversely impact any of the surrounding receivers provided the recommendations of the report are adopted.</i></p> <p>Council's Environmental Health Officer reviewed the report and raised no objections to the findings.</p> <p>Had the application been recommended for approval, appropriate conditions of consent would have been imposed requiring the recommendations of the Acoustic Report to be incorporated into the design of the development.</p>	
Clause 35	<p>Solar Access</p> <p>The proposed development should—</p> <p>(a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and</p> <p>(b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living</p>	<p>The proposed development fails to ensure adequate daylight to the main living areas of residents and adequate sunlight to the courtyard areas within the development, in particular the lower ground and ground floor main living areas and the lower ground floor courtyard.</p> <p>Further, it is considered that the proposed retaining walls along the southern and western boundaries are excessive in height and will restrict daylight access into proposed Units 1 through to 4, and 13 through to 16 on the ground floor and result in a subterranean environment.</p> <p>The proposed development fails to ensure the use of natural ventilation, solar heating and lighting for the future residents of the residential care facility. Council's Design Excellence Panel also expressed concern in this regard:</p>	No

Clause	Requirement	Proposal	Complies
	and dining areas in a northerly direction.	<p><i>Some living and dining spaces within the layout (including central dining space on lower ground; south and north living spaces on ground level; and central southern living space on level one) may require further design modification to facilitate acceptable solar access, natural ventilation and/or outlook. Further clarification is required (by way of section, plan and internal views) to demonstrate currently proposed and – where required – amended strategies to achieve high level amenity to these key communal spaces.</i></p> <p>This will result in a poor amenity outcome for future residents with regard to solar access and access to ventilation. This forms part of the recommendation for refusal.</p>	
Clause 36	<p><i>Stormwater</i></p> <p>The proposed development should—</p> <p>(a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and</p> <p>(b) include, where practical, on-site stormwater detention or re-use for second quality water uses</p>	<p>The application proposes to construct an On-site Detention System (OSD) collecting all concentrated flows from impervious services such as roof areas, parking areas, and roads.</p> <p>Council's Development Engineer reviewed the proposal and noted:</p> <p><i>Section 6.4 of the UPRCT guidelines 4th edition states that the detention system is completely drowned. The proposed stormwater system will not be able to function in the 1% AEP storm event. The TWL of the basin is below the downstream flood level, which means it will be influenced by downstream tailwater conditions, which will not be a fully functional and viable system. In accordance with the UPRCT Guidelines, HED is calculated by TWL of OSD – Top of the kerb or flood level.</i></p> <p>It has not been demonstrated that the disturbance and impacts on adjoining properties will be minimised.</p> <p>As such, it is considered, that the proposal does not satisfy the stormwater requirements of</p>	No

Clause	Requirement	Proposal	Complies
		Council's controls, nor the Seniors SEPP. This forms part of the recommendation for refusal.	
Clause 37	<p><i>Crime Prevention</i></p> <p>The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:</p> <p>(a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and</p> <p>(b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and</p> <p>(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</p>	<p>A Crime Risk Assessment prepared by NEAL Consulting Solutions (dated 25 October 2021) was submitted with the application.</p> <p>The assessment has concluded that that a CPTED rating of 'low' has been achieved by this proposal. The assessment further states that all requirements of the NSW Police CPTED checklist are complied with.</p> <p>The proposed development provides personal property security for residents and visitors and encourages crime prevention.</p> <p>Had the application been recommended for approval, appropriate conditions of consent would have been imposed implementing the recommendations of this assessment.</p>	Yes
Clause 38	<p><i>Accessibility</i></p> <p>The proposed development should:</p> <p>(a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and</p> <p>(b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.</p>	<p>It is proposed to construct the footpath to a gradient exceeding 1:14 for a distance of approximately 20m. Compliance with this part of the control has not been adequately demonstrated.</p> <p>This forms part of the recommendation for refusal.</p>	No Insufficient information provided.
Clause 39	<p><i>Waste Management</i></p> <p>The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.</p>	<p>The architectural plans indicate a central waste storage area proposed to be located in the basement which has been designed to cater for the required number of waste, recycle and medical waste bins.</p> <p>A Management Plan (WMP) prepared by HBB Property (dated 30 September 2021) was submitted as part of this application. The WMP indicates that waste disposal will be undertaken by a private contractor. Council's Environmental Health Officer reviewed the report and raised no objection subject to appropriate conditions of consent regarding waste transportation and excavated material.</p>	Yes

Clause	Requirement	Proposal	Complies
		Further to this, an additional report prepared by Universal Foodservice Designs (dated 11 October 2021) detailed the management of waste during the ongoing use of the proposed facility. The report concluded that the facilities provided in the proposed development will adequately cater for the projected waste generation rates. Council's Environmental Health Officer reviewed the report and raised no objection subject to appropriate conditions of consent regarding ongoing waste management.	

Part 4 Development standards to be complied with

Division 1

Clause 40 provides that a consent authority must not consent to a development application unless the development complies with the standards specified in this clause.

Clause	Requirement	Proposal	Compliance
40 (2) Site Size	1000m ² (min)	7063.94m ²	Yes
40 (3) Site Frontage	20m (min)	Murray Farm Road: 50.29m Watton Road: 46.12m	Yes
40(4) Height	8 metres or less	8m	Yes
	Not more than 2 storeys in height adjacent to a boundary of the site.	The proposed building is a part two (2) and part three (3) storey construction. A portion proposed lower ground floor is above natural ground level (along the northern elevation), and results in a three (3) storey appearance to Watton Road. This portion of the proposed building does not represent an appropriate bulk and scale that is compatible with the residential streetscape context or the low density character of the area, particularly when viewed from Watton Road. Unreasonable impacts to adjoining and adjacent residential properties will occur as a result of the excessive bulk and scale of the proposal. This forms part of the recommendation for refusal.	No Excessive scale in a low density residential environment
	Buildings located in rear 25% area of site not to exceed 1 storey	No portion of the proposed building is located within the rear 25% of the site.	Yes

Part 7 Development standards that cannot be used as grounds to refuse consent

Division 2 – Residential Care Facilities

Clause	Requirement	Proposal	Complies
The consent authority must not refuse consent to an application on the grounds of the following if compliance is achieved.			
48(a) Building Height	8 metres or less	8m	Yes
48(b) Density and Scale	FSR 1:1 GFA permitted: 7063.94	<u>Applicant's calculation</u> 0.88:1 Total Site GFA: 6,229m ² <u>Council's calculation*</u> 0.93:1 Total Site GFA: 6,587.40m ²	Yes
48(c) Landscaped Area	Minimum of 25 square metres of landscaped area per residential care facility bed Required 110 x 25m ² = 2,750m ²	2,781.03m ²	Yes
48(d) Parking for Residents and Visitors	(i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and (ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and (iii) 1 parking space suitable for an ambulance. Required: 11 Resident car parking spaces 13 Staff car parking spaces 1 Ambulance bay	It is proposed to provide 24 car parking spaces, including one (1) accessible space within the basement. An ambulance bay is proposed within the loading dock accessed via Watton Road. Note: No details have been provided regarding the allocation of resident or staff car parking spaces. This is not considered to be a matter of concern, and has the application been recommended for approval could have been addressed via the imposition of an operational condition.	Yes

State Environmental Planning Policy (Housing) 2021

Note: the below compliance table is provided for comparative purposes only and does not inform the determination of this application.

The State Environmental Planning Policy (Housing) 2021 (Housing SEPP) was published and came into effect on 26 November 2021. The Housing SEPP consolidated five (5) former housing related policies:

- State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)
- State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP)
- State Environmental Planning Policy No 70 - Affordable Housing (Revised Schemes) (SEPP 70)
- State Environmental Planning Policy No 21 - Caravan Parks
- State Environmental Planning Policy No 36 - Manufactured Home Estates

The following table addresses amendments where a previously non-compliance was identified:

Clause	Requirement	Proposal	Complies
Division 3 Development Standards			
Clause 84	(c) for development on land in a residential zone where residential flat buildings are not permitted—	The proposed development will have a maximum building height of 9m including servicing equipment.	Yes

Clause	Requirement	Proposal	Complies
	<p>(i) the development will not result in a building with a height of more than 9.5m, excluding servicing equipment on the roof of the building, and</p> <p>(ii) if the roof of the building contains servicing equipment resulting in the building having a height of more than 9.5m—the servicing equipment complies with subsection (3), and</p> <p>(iii) if the development results in a building with more than 2 storeys—the additional storeys are set back within planes that project at an angle of 45 degrees inwards from all side and rear boundaries of the site.</p> <p>Note: Under the Housing SEPP Building Height has the same definition as per the Standard Instrument which states:</p> <p><i>(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or</i></p> <p><i>(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.</i></p>	<p>The proposed building is a part two (2) and part three (3) storey construction. A portion proposed lower ground floor is above natural ground level (along the northern elevation), and results in a three (3) storey appearance to Watton Road.</p> <p>Insufficient detail has been provided to enable assessment against this control.</p>	Not able to be determined.
Division 4 Site Related Requirements			
Clause 94	<p>(1) Development consent must not be granted for development for the purposes of a residential care facility unless the consent authority is satisfied that residents of the facility will have access to facilities and services—</p> <p>(a) on-site, or</p> <p>(b) by a transport service other than a passenger service.</p> <p>Note: Under the Housing SEPP, facilities and services are defined as:</p> <p><i>(a) shops and other retail and commercial services that</i></p>	<p>As detailed in the above assessment the nearest facilities and services are located at the at Carmen Drive neighbourhood centre which is located 400m the site. There are two medical practices located within a 400m distance from the site. A medical practice located 20m south of the site on the opposite side of Murray Farm Road and the second medical practice is located around 240 northeast of the site.</p> <p>The major arterial road in proximity to the site is Oakes</p>	Yes

Clause	Requirement	Proposal	Complies
	<i>residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner.</i>	<p>Road, which has four bus stops, within 400m of the site, providing regular bus services connecting to Beecroft Railway Station, Carlingford Train Station and the Carmen Drive shopping village.</p> <p>The Housing SEPP does not specifically detail access requirements to a facility or service.</p> <p>The proposal is considered to satisfy the requirements of Clause 94.</p>	

8.3 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021 – CHAPTER 2 VEGETATION IN NON-RURAL AREAS

The State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies to the site. The aims of the plan are to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of the non-rural areas of the State through the preservation of trees and other vegetation.

This application proposes to remove 23 of the 48 trees on the subject site, and one (1) tree within the public domain along Watton Road.

It is noted that the application proposed to remove three (3) trees which are located on the adjoining property to the east, No. 41A Murray Farm Road (Trees 27, 28 and 29). This cannot be achieved as part of this Development Application.

Council's Landscape Architect has inspected these trees, and has advised that they are in poor health and can be removed as exempt development only with the express consent of the adjoining property owner.

Council's Tree Management Officer reviewed the amended Arborist report and tree protection plan and advised that no objection is raised to the removal of 23 of the 48 trees on the subject site, and one (1) tree within the public domain along Watton Road.

It is considered that the removal of 23 of the 48 trees on site will not have an adverse impact of the ecological, heritage, aesthetic and cultural significance of the area. The proposed replacement planting and mitigation measures will ensure that the development will not result in an unacceptable loss of amenity values or finite natural resources. The development as a whole will positively contribute to ensuring a sustainable urban forest canopy in the Parramatta Local Government Area.

As such, the consent authority can be satisfied that the tree removal is in accordance with the SEPP.

8.4 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021 – CHAPTER 10 SYDNEY HARBOUR CATCHMENT

The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.

The development is consistent with the objectives and controls contained with the SEPP. Were the application recommended for approval any matters of general relevance (erosion control, etc) are able to be managed by conditions of consent.

8.5 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021 – CHAPTER 4 REMEDIATION OF LAND

The requirements of State Environmental Planning Policy (Resilience and Hazards) 2021 apply to the subject site. In accordance with Chapter 4 of the SEPP, Council must consider if the land is contaminated, if it is contaminated, is it suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed use.

The site comprises of three parcels of land, these three lots are known as No. 43-47 Murray Farm Road, No. 13 Watton Road and No.19 Watton Road, Carlingford. A former bus depot was located at No. 43- 47 Murray Farm Road which accounts for a majority of the site, No. 13 Watton Road was a residential property and No.19 Watton Road is a vacant parcel of land.

Site remediation and validation works were completed at 43-47 Murray Farm Road in 2015. The remedial works carried out related to two fuel underground storage tanks (USTs) in the south eastern corner of the site, a waste oil underground storage tank (UST) in the centre of the site and asbestos impacted road base fill material in the southern portion of the site. The garage / mechanical workshop in the central portion of the site was demolished, to enable access to the service pits and waste oil tank. 1,516.20 tonnes of material was disposed of offsite and 840 tonnes of virgin excavated natural material (VENM) was imported and used to backfill excavations, which were greater than 1m below ground surface. A groundwater assessment was also undertaken in the south eastern corner of the site and no evidence of widespread contamination was detected.

Further to this, the applicant has submitted an Environmental Site Assessment (ESA) report, prepared by JBS&G and dated 9 August 2018. The investigation comprised of a site inspection, soil sampling from 11 excavated test pits, two (2) hand auger soil borings and a surface sample. Fragments of asbestos containing material (ACM) were observed on the site surface at the centre of the previously remediated southern portion of the site and along the northern and western lengths of the main building (on 43-47 Murray Road). Fill materials were observed within No. 19 Watton Road, which included brick, household waste, glass and concrete.

The key recommendations of the ESA report are as follows:

- The risk of exposure to future users of the site is low and not unacceptable. The risk to offsite receptors is low and not unacceptable
- An asbestos management plan (AMP) should be prepared for management of ACM identified on the surface of the site and for management of asbestos that may be present in existing buildings at the site. The AMP should consider regulatory requirements particularly for proposed demolition of existing buildings
- It is considered that the site is suitable for the proposed residential use subject to the management of asbestos concerns via implementation of an AMP to address regulatory requirements
- Given the nature of the site, it is recommended that a construction management plan including an unexpected finds protocol be implemented during the early works phase of future site development works such that any smaller scale issues associated with contamination may be suitably managed by the appointed contractors.

Based on the findings of the investigation, the report considers that the site is suitable for the proposed residential use subject to the management of asbestos concerns via implementation of an AMP to address regulatory requirements.

The application along with the ESA submitted by the applicant was reviewed by Council's Environmental Health team who determined that satisfactory evidence has been provided that the site can be made suitable for the proposed development subject to conditions of consent.

Clause 4.6 of the SEPP requires that the consent authority must consider if land is contaminated and, if so, whether it is suitable, or can be made suitable, for a proposed use. In considering this matter it is noted:

- The site has previous history as being contaminated. The sites have a history of a previous land use that may have caused contamination
- As discussed above, the applicant has submitted an Environmental Site Assessment (ESA) as part of the development application which concludes that the risk of exposure to future users of the site is low and not unacceptable. The risk to offsite receptors is also low and not unacceptable. It is noted that the report also conclude that the site can be made suitable for the proposed development subject to the recommendations within the report.

Therefore, in accordance with Clause 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021, the land is suitable for the proposed development being a residential care facility.

Were the application recommended for approval, standard and special conditions relating asbestos, site audit statement, site investigation and contamination would be incorporated into a notice of determination.

8.6 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021 – CHAPTER 2 INFRASTRUCTURE

The relevant matters to be considered under Chapter 2 of the SEPP for the proposed development are outlined below.

Endeavour Energy

In accordance with Clause 2.48 of SEPP (Infrastructure) 2007 the application was formally referred to Endeavour Energy.

The application was referred to Endeavour Energy for comments. Endeavour Energy raised no objections subject to appropriate conditions being imposed on the consent relating to network capacity/connection, earthing, safety clearances, vegetation management, noise, dial before you dig, demolition, public safety and emergency contact comments.

Had the application been recommended for approval, recommended conditions of consent would have been imposed as recommended by Endeavour Energy.

Transport for NSW

Clause 2.18: Development with a frontage to a Classified Road

The application is not subject to Clause 2.118 of the SEPP as the site does not have frontage to a classified road.

Clause 2.121 Traffic Generating Development

Clause 2.121 applies to the development of a new premises of a relevant size or capacity. For the purpose of defining traffic generating development which is of a relevant size and capacity, the SEPP refers to Schedule 3. Schedule 3 does not specifically define Seniors Housing, however, for the purpose of this assessment, the proposal is defined as ‘any other purpose’. For development, for ‘any other purpose’, this Clause applies to development which generates 200 or more motor vehicles per hour.

A Traffic Impact Assessment (TIA), prepared by Ason Group (dated 14 October 2021) was submitted as part of this Development Application. The TIA concluded that a total of 35 trips will be generated per day, and noted:

The analysis further demonstrated that the net traffic generation volumes are of a sufficiently low order that once distributed onto the surrounding road network, the impacts of these volumes at the key intersections would be negligible and the intersections would operate very close to existing.

Council’s Traffic Engineer reviewed the proposal with regarding to traffic generation and noted:

A Traffic Impact Assessment, prepared by Ason Group (dated 14 October 2021) was submitted with the Development Application. The report undertook SIDRA modelling for the Murray Farm Rd/Oakes Rd and Oakes Road/Carmen Dr/Coral Tree Dr intersections. The result of the SIDRA analysis indicates that the net increase in traffic volumes generated by the Site would result in minimal increases in delay at the key intersections. The report, then, concludes that the impacts of these volumes at the key intersections would be negligible and the intersections would operate very close to how they currently do.

It is considered that the intensity and nature of the proposal is compatible with road capacity and function. Both vehicle and pedestrian safety will be maintained. The proposal provides for well-designed and safe vehicle and pedestrian access and loading area.

With regards to requirements of Clause 2.121 and, Schedule 3 of the SEPP, the development does not have a capacity for 200 or more motor vehicles. Therefore, the SEPP does not apply in this respect.

8.7 PREVIOUS STATE ENVIRONMENTAL PLANNING POLICIES

The subject application was lodged prior to the commencement of the Consolidated State Environmental Planning Policies on 1 March 2022. As the provisions within the previous SEPPs are generally the same, savings provisions do not apply to the new SEPPs. A comparison of the previous and consolidated SEPPS are demonstrated in the table below.

Old SEPP/SREP	New SEPP	New Location
(Vegetation in Non-Rural Areas) 2017	(Biodiversity and Conservation) 2021	• Chapter 2
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)	(Biodiversity and Conservation) 2021	• Chapter 10
No 55—Remediation of Land (Infrastructure) 2007	(Resilience and Hazards) 2021 (Transport and Infrastructure) 2021	• Chapter 4 • Chapter 2

9. Parramatta (former the Hills) Local Environmental Plan 2012

This Development Application is not made pursuant to the Parramatta (former The Hills) LEP 2012 (LEP 2012), however, any inconsistencies between the SEPP (Housing for Seniors or People with a Disability) 2004 and the Parramatta (former The Hills) LEP 2012 are noted. The relevant matters considered under the LEP 2012 and pursuant to Clause 5(3) of the Seniors SEPP for the proposed development are outlined below:

Clause 1.2 Aims of Plan

- (a) to guide the orderly and sustainable development of the City of Parramatta local government area, balancing its economic, environmental and social needs,
- (b) to provide strategic direction and urban and rural land use management for the benefit of the community,
- (c) to provide for the development of communities that are liveable, vibrant and safe and that have services and facilities that meet their needs,
- (d) to provide for balanced urban growth through efficient and safe transport infrastructure, a range of housing options, and a built environment that is compatible with the cultural and natural heritage of the City of Parramatta local government area,
- (e) to preserve and protect the natural environment of the City of Parramatta local government area and to identify environmentally significant land for the benefit of future generations,
- (f) to contribute to the development of a modern local economy through the identification and management of land to promote employment opportunities and tourism.

The application is inconsistent with the aims of the LEP 2012 as the application is considered to be an over development in terms of the bulk and scale of the development and as such, Council cannot support development which is incompatible within the surrounding areas and detracts from the existing streetscape.

The proposed development is not considered to be a desired development within the context of the site and is therefore not consistent with the aims of the Parramatta (former The Hills) LEP 2012.

Clause 2.3 Zone objectives and Land Use Table

The site is zoned R2 Low Density Residential. The aims and objectives for the R2 Low Density Residential zone in Clause 2.3 – Zone Objectives are as follows:

- 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.
- To provide for a variety of housing types.

The proposed Residential Care facility (Seniors Housing) use is not inconsistent with the objectives of the R2 Low Density Residential zone, however, the impacts of the proposal, for reasons outlined in this report, will result in adverse impacts and affect the low-density residential environment the objectives aim to protect. As such, the proposed Residential Care facility (Seniors Housing) use is not considered appropriate for the site.

Standards and Provisions	Compliance
Part 4 Principal development standards	
Cl. 4.3 Height of buildings	<p>Complies</p> <p>The maximum building height limit of 9 metres applies under the LEP However, the application is made under the Seniors SEPP.</p>

	For the building to a maximum height of 8m. The development completeness, it is proposed to construct complies with the numerical building height controls (and definition) detailed in the Seniors SEPP.
Cl. 4.4 Floor space ratio	N/A The site is not subject to FSR pursuant to LEP 2012.
Part 5 Miscellaneous provisions	
Cl. 5.10 Heritage conservation	The subject site is not identified as an item of heritage significance and is not located within a heritage conservation area. The subject site is identified as having low aboriginal significance. Had the application been recommended for approval, a condition of consent would be imposed to ensure that if any relics are discovered during the excavation of the basement, work must cease and reported to Council.
Cl. 5.21 Flood planning	<p>Part of the site is subject to flooding by 1% AEP and PMF floods. The 1% AEP flooded area as shown in Figure 7 does not significantly impinge on No. 43-47 Murray Farm Road but substantially inundates No. 19 Watton Road.</p> <p>It is also noted that, the site is located adjacent to the Girraween Creek which is a natural waterway along the length of the development site within the wider subject site. The site and the surrounding area are subject to major low, medium and high hazard flooding. Girraween Creek is a mostly natural waterway upstream and is a concrete channel further downstream where Girraween Creek merges with Pendle Creek. Therefore, flow volumes are high and, at times of concentration, are shortened with flood peaks travelling rapidly downstream, resulting in short warning times, high intensity and potential for high peak floods.</p> <p>Girraween Creek is subject to severe floods during extreme events of the upper Parramatta River catchment, resulting in flood hazard conditions for a majority of the site area.</p> <p>This Development Application was referred to Catchment Engineer, who concluded that the Flood Risk Management report prepared by Umwelt Environmental and Social Consultants, dated 25 October 2021, is generally acceptable.</p> <p>Had the application been recommended for approval, suitable conditions of consent would have been imposed regarding implementation of the Flood Risk Management report.</p> <p>Note: An inconsistency between the flood report and the proposed architectural plans was identified. As per the flood report, the basement floor is at 91.3m AHD and the architectural plans dated 10/12/2021 show the lower ground floor level to be at 90.00m AHD. This inconsistency was identified on 20 April 2022, after the Class 1 appeal had been lodged. As such, the applicant was not given the opportunity to address the concerns raised.</p>
Part 7 Additional local provisions	
Cl. 7.2 Earthworks	<p>The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p> <p>Associated earthworks to create a level building platform and enable the construction of the basement are proposed. This will result in up to 6.5m in cut throughout the site. A total volume of 14,022m² of soil is proposed to be removed.</p> <p>The proposal fails to satisfy Clause 3(b) of the LEP. Clause 3(b) requires the consent authority to consider the effect of the proposed development on the likely future use or redevelopment of the land. The extent of earthworks</p>

	<p>proposed will require extensive retaining walls to be constructed along the southern and western boundaries to a height of up to 2m. The construction of these walls, which are required to support the extensive cut will restrict daylight access into proposed Units 1 through to 4, and 13 through to 16 on the ground floor and result in a subterranean environment.</p> <p>This Development Application fails to ensure that earthworks will not have a detrimental impact on the subject site, and its likely future use being a Seniors Living facility.</p>
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10. Draft Environmental Planning Instruments

The Draft Parramatta Local Environmental Plan 2020 was placed on public exhibition from 31 August 2020 to 12 October 2020. The draft LEP will replace the five existing LEPs that apply within the Local Government Area and will be the primary legal planning document for guiding development and land use decisions made by Council.

Whilst the draft LEP must be considered when assessing this application under Clause 4.15 (1) (a) (ii) of the Environmental Planning & Assessment Act 1979, the LEP is neither imminent nor certain and therefore limited weight has been placed on it.

There are no changes proposed under the draft LEP that amend key development standards applicable to the site. As such, the proposal is inconsistent with the provisions of this draft LEP in the same manner as the current LEP 2012.

11. The Hills Development Control Plan 2012

The relevant matters to be considered under The Hills Development Plan 2011 (DCP 2011) for the proposed development are outlined below.

The relevant matters to be considered under The Hills Development Control Plan 2012.

The Hills DCP 2012 (HDCP 2012) does not contain specific controls relating to seniors housing developments. A consideration of the relevant sections of the HDCP 2012, which includes the controls for general residential development and residential flat buildings is provided below.

Part B – Section 2 - Residential		
2.5 Streetscape and Character	<p>The development does not meet the existing and future desired character of Murray Farm Road and Watton Road given the R2 Low Density zoning applying to the land. The locality is primarily characterised by single and double storey developments. The visual presentation of the building has perceivable impact on the streetscape due to the bulk and scale of the building and fails to achieve an appropriate streetscape outcome.</p> <p>The visual presentation of the cavernous basement driveway has perceivable impact on the Watton Road streetscape due to the excessive retaining walls required to support the proposed earthworks. The proposal fails to achieve an appropriate streetscape outcome. The scale of built form elements of the proposal detracts from the existing amenity and character of the area.</p> <p>It is considered that spread of the building across the site, and as viewed from Murray Farm Road, has adverse effect on the overall streetscape and character of the area., The overall appearance of the proposed buildings is not in keeping with the character of the Low-Density area and the existing environment.</p> <p>As such, the appearance of the proposed development does not enhance the streetscape or complement surrounding development. The proposal fails to satisfy the Objectives of this Part of the HDCP 2012.</p>	No
2.6	The site is not bushfire prone	N/A

Bushfire Hazard Management		
2.7 Geotechnical Site Stability	The site has excessive slope, the site works include bulk earth works, including cut and fill on the site. The application is accompanied by a Geotechnical Report and Civil Works drawings showing details of the earth works and retaining walls to be carried out on site. Had the application been recommended for approval, suitable conditions of consent would have been imposed	Complies
2.8 Bushland and Biodiversity	The site does not contain any mapped significant bushland. The proposal involves tree removal. Council's Landscape Officer has reviewed the proposal and raised no objection. Had the application been recommended for approval, suitable conditions of consent would have been imposed	Complies
2.9 Erosion and Sediment Control	The proposal includes erosion and sediment control measures during construction. Had the application been recommended for approval, suitable conditions of consent would have been imposed regarding the erosion and sediment control.	Complies
2.10 Heritage	The site is not heritage listed and is not in the vicinity of a heritage listed item or a heritage conservation area	N/A
2.11 Signage	No signage proposed as part of this Development Application.	N/A
2.12 Stormwater Management	The application proposes to construct an On-site Detention System (OSD) collecting all concentrated flows from impervious services such as roof areas, parking areas, and roads. Council's Development Engineer reviewed the proposal and noted: <i>Section 6.4 of the UPRCT guidelines 4th edition states that the detention system is completely drowned. The proposed stormwater system will not be able to function in the 1% AEP storm event. The TWL of the basin is below the downstream flood level, which means it will be influenced by downstream tailwater conditions, which will not be a fully functional and viable system. In accordance with the UPRCT Guidelines, HED is calculated by TWL of OSD – Top of the kerb or flood level.</i> It has not been demonstrated that the disturbance and impacts on adjoining properties will be minimised. As such, it is considered, that the proposal does not satisfy the stormwater requirements of Council's controls, nor the SEPP (Seniors) 2004. This forms part of the recommendation for refusal	No
Part B Section 5 Residential Flat Building		
Frontage	30m	50.29m: Murray Farm Road 46.12m: Watton Road
Front Setback	10m	13.30m
Side Setback	6m	East- 6m West- 3.9m
		Yes No

12. Other Matters

Determination of Development Application DA/85/2019 was subsequently challenged within the Land and Environment Court (LEC) via a Class 1 appeal (NSWLEC 1393). The LEC dismissed the Appeal, and the application was refused. The following table includes matters of concern concluded, the applicant's response as part of this Development Application, and Council comment.

Conclusion	Applicant Comment	Council Comment
55 There is considerable attention to the question of compatibility with neighbouring development in the	<ul style="list-style-type: none"> Adjustment of the north elevation to Watton Road to integrate the above changes 	Concerns regarding the bulk and scale, built form and character of the proposed development remain.

<p><i>matters warranting consideration under SEPP Seniors. While points of attention are cl 33 and 34 (see [18]), and whether “adequate regard” has been given to neighbourhood amenity and streetscape and “visual and acoustic privacy”, as itemised; there is also a need, mindful of cl 29 and as detailed at [15] to take into consideration the “impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing (land) uses”.</i></p>	<p>and ensure a compatible scale and façade character in that context.</p> <ul style="list-style-type: none"> • With consideration for the streetscape on Murray Farm Road, further articulation of the built form and roof profile to achieve a complementary relationship along that frontage. 	<p>The character and scale of proposed development does not achieve the desired outcomes anticipated by the SEPP (Seniors) 2004 nor is it considered to be residential-compatible or small-scale. The subject site is considered to be unsuitable for the proposed facility.</p> <p>The visual presentation of the building has perceivable impact on the streetscape due to the bulk and scale of the building and fails to achieve an appropriate streetscape outcome.</p> <p>The locality is primarily characterised by single and double storey residential dwellings as well as dual occupancies of a 2-storey nature. The proposal results in a bulky development, which does not harmoniously fit within the current context of the locality and adds to the bulk of the proposal and creates a negative visual impact to the streetscape.</p> <p>The proposed building is a part two (2) and part three (3) storey construction. A portion proposed lower ground floor is above natural ground level (along the northern elevation), and results in a three (3) storey appearance to Watton Road. The visual presentation of the cavernous basement driveway has perceivable impact on the Watton Road streetscape due to the excessive retaining walls required to support the proposed earthworks. The proposal fails to achieve an appropriate streetscape outcome. The scale of built form elements of the proposal detracts from the existing amenity and character of the area.</p> <p>This portion of the proposed building does not represent an appropriate bulk and scale that is compatible with the residential streetscape context or the low density character of the area, particularly when viewed from Watton Road. Unreasonable impacts to adjoining and adjacent residential properties will occur as a result of the excessive bulk and scale of the proposal. This forms part of the recommendation for refusal.</p>
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<p>56. <i>There are many intricacies to the design of the proposal, and some successes in relation to architectural and landscape details when ambitions to supply residential care accommodation are concerned. But as foreshadowed in Project Venture (at [25]), the impact of the proposal on the amenity of 49 Murray Farm Road can be relatively objectively assessed. In this instance, it seems to me there would be a severe impact on the amenity enjoyed at 49 Murray Farm Road as a consequence of the more or less complete enclosure of the rear and eastern side of the property by the proposed development. The sense of openness in the rear yard would be almost entirely lost.</i></p> <p>57. <i>Of particular importance here, I am not convinced that design changes which give more sympathetic regard to the amenity of 49 Murray Farm Road are not available without unduly prejudicing the supply of residential care accommodation. In turn, it seems to me that adequate regard has not been given to neighbour amenity and the proposal is not consistent with the ambitions of SEPP Seniors in its current form.</i></p>	<ul style="list-style-type: none"> • Reduction of the Level 1 floor area on the western wing and lowering of the roof, together with stepping the Ground Floor back by 7.7m at the south-west corner to remove visual bulk from the northern outlook of 49 Murray Farm Road. • Setting back the west elevation of Level 1 a distance of 18.3m from the boundary with 11 Watton Road to allow rooms 21-23 an outlook with privacy. • Setting back the west elevation of Level 1 adjacent the rear yard of 49 Murray Farm Road a distance of 12-14m to minimise the sense of enclosure to 49 Murray Farm Road. 	<p>As discussed earlier in this report with regard to visual and acoustic privacy, it is considered that the proposed development has been designed to minimise the likelihood of any adverse overlooking or intrusion of aural privacy of adjoining properties. This has been achieved by providing sufficient setbacks, screening elements, and the siting of windows away from shared boundaries.</p> <p>Concern still remains regarding the loss of a sense of openness of the rear yard of No. 49 Murray Farm Road. The extent of excavation does not have regard for the natural topography of the site, or the visual amenity of Murray Farm Road or Watton Road. Retaining walls and balustrades will be required to be constructed along site boundaries resulting in a loss of residential character, cohesion and amenity values and will result in an enclosure of space for residents at adjoining properties, specifically No. 49 Murray Farm Road. The low density, landscaped character of the public domain will not be maintained. This forms part of the recommendation for refusal.</p>
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13. Development Contributions

In accordance with Council's *City of Parramatta (Outside CBD) Development Contributions Plan 2021*, a Section 7.11 Development Contribution is required to be paid. A condition would have been imposed requiring the contribution to be paid should the application be recommended for approval.

14. Bonds

A condition would have been imposed requiring a security bond to be paid should the application be recommended for approval.

15. EP&A Regulation 2021

Applicable Regulation considerations would have been addressed by appropriate consent conditions, should the application be recommended for approval.

16. The likely impacts of the development

The assessment demonstrates that the proposal will result in significant adverse impacts upon adjoining properties and the environment due to the nature of the development. The additional impacts associated with the development or those requiring further consideration are discussed below.

Context and Setting

The current character of the neighbourhood is of low density residential in nature, which consists of mainly single and two storey detached dwelling houses. The area is not undergoing a transition and the desired future character under the LEP 2012 and DLEP 2020 is for low-density residential developments.

The character and scale of proposed development does not achieve the desired outcomes anticipated by the SEPP (Seniors) 2004 nor is it considered to be residential-compatible or small-scale. The subject site is considered to be unsuitable for the proposed facility.

The visual presentation of the building has perceivable impact on the streetscape due to the bulk and scale of the building and fails to achieve an appropriate streetscape outcome.

The locality is primarily characterised by single and double storey residential dwellings as well as dual occupancies of a 2-storey nature. The proposal results in a bulky development, which does not harmoniously fit within the current context of the locality and adds to the bulk of the proposal and creates a negative visual impact to the streetscape.

Accessibility

The applicant has submitted an Access Report by Morris Goding Access Consultants (MGAC) (dated 22 October 2021) which confirms that the development can comply with the accessibility requirements under SEPP, the Building Code of Australia (BCA) and DDA Access to Premises Standards (including DDA Access Code). The report concludes:

MGAC has assessed the scheme for the proposed Carlingford Residential Care Facility at Carlingford. The drawings indicate that accessibility requirements, pertaining to external site linkages, building access, common area access, sanitary facilities and parking can be readily achieved. It is advised that MGAC will work with the project team as the scheme progresses to ensure appropriate outcomes are achieved in building design and external domain design.

Council's Accessibility Officer reviewed the proposal as submitted and requested amended plans ensuring the proposal complies with the submitted Access Report and Seniors SEPP. A number of design recommendations were also made. Amended plans were submitted, and partially satisfy concerns raised.

Had the application been recommended for approval, appropriate conditions of consent would have been imposed to assure the development is for the purpose of seniors or people who have a disability.

Overall, it is considered that the application has demonstrated that the building has been designed and is capable of being constructed to provide access and facilities for people with a disability in accordance with the accessibility requirements under the SEPP (Seniors) 2004, the Building Code of Australia (BCA) and DDA Access to Premises Standards (including DDA Access Code).

Amenity

Solar Access (for future residents)

The proposed development fails to ensure adequate daylight to the main living areas of residents and adequate sunlight to the courtyard areas within the development, in particular the and the lower ground floor and ground floor main living areas and the lower ground floor courtyard.

Further, it is considered that the proposed retaining walls along the southern and western boundaries are excessive in height and will restrict daylight access into proposed Units 1 through to 4, and 13 through to 16 on the ground floor, and create a subterranean environment.

This will result in a poor amenity outcome for future residents in regard to solar access.

Enclosure of Space (for adjoining residents)

The extent of excavation does not have regard for the natural topography of the site, or the visual amenity of Murray Farm Road or Watton Road. Retaining walls and balustrades will be required to be constructed along site boundaries resulting in a loss of residential character, cohesion and amenity values and will result in an enclosure of space for residents at adjoining properties, specifically No. 49 Murray Farm Road. The low density, landscaped character of the public domain will not be maintained. This forms part of the recommendation for refusal.

Stormwater

The application proposes to construct an On-site Detention System (OSD) collecting all concentrated flows from impervious services such as roof areas, parking areas, and roads.

Council's Development Engineer reviewed the proposal and noted:

Section 6.4 of the UPRCT guidelines 4th edition states that the detention system is completely drowned. The proposed stormwater system will not be able to function in the 1% AEP storm event. The TWL of the basin is below the downstream flood level, which means it will be influenced by downstream tailwater conditions, which will not be a fully functional and viable system. In accordance with the UPRCT Guidelines, HED is calculated by TWL of OSD – Top of the kerb or flood level.

It has not been demonstrated that the disturbance and impacts on adjoining properties will be minimised.

17. Suitability of the Site

The subject site is not a suitable location for the development of a residential care facility (Seniors Housing) of this scale as the site cannot accommodate required services and facilities to enable efficient and safe operation of the use without causing further impacts on the amenity of surrounding properties.

The proposed development is considered an overdevelopment of the site as the operation of the facility results in undesirable amenity impacts for future residents and adjoining properties, and unacceptable pedestrian safety impacts within the locality.

18. Public Consultation

The application was notified in accordance with Schedule 1 of the Environmental Planning and Assessment Act 1979. In response twenty-four (24) submissions were received objecting to the proposal, with twenty (20) of those being unique. The issues raised within those submissions are addressed below and have been grouped and summarised to avoid repetition.

Issue	Response
Permissibility The proposed development is not permissible.	The application is made pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP), which permits development for the purposes of housing for older people or people with disabilities on land within the R2 Low Density Residential zone.
Suitability of the Site The site is not suitable for the proposed development.	<p>The subject site is not a suitable location for the development of a residential care facility (Seniors Housing) of this scale as the site cannot accommodate required services and facilities to enable efficient and safe operation of the use without causing further impacts on the amenity of surrounding properties.</p> <p>The proposed development is considered an overdevelopment of the site as the operation of the facility results in undesirable amenity impacts for future residents and adjoining properties, and unacceptable pedestrian safety impacts within the locality.</p> <p>This forms part of the recommendation for refusal.</p>
Non-compliance with SEPP and LEP controls, in particular building height.	<p>It is acknowledged that the proposed development has a number of non-compliances with SEPP, LEP and DCP controls.</p> <p>A merit assessment of the non-compliances have been undertaken in accordance with the matters for consideration under S4.15 of the EP&A Act 1979.</p> <p>In that regard, many of the non-compliances were not considered to be acceptable and the application has been recommended for refusal.</p>

	<p>A detailed discussion of the non-compliances has been provided in the compliance tables within this report.</p>
<p>Bulk and Scale The bulk and scale of the proposed development is excessive.</p>	<p>Council shares the view that the development is an overdevelopment of the site in regard to the low density character of the locality and will be detrimental to the streetscape.</p> <p>The proposed building is a part two (2) and part three (3) storey construction. A portion proposed lower ground floor is above natural ground level (along the northern elevation), and results in a three (3) storey appearance to Watton Road.</p> <p>This portion of the proposed building does not represent an appropriate bulk and scale that is compatible with the residential streetscape context or the low density character of the area, particularly when viewed from Watton Road. Unreasonable impacts to adjoining and adjacent residential properties will occur as a result of the excessive bulk and scale of the proposal. This forms part of the recommendation for refusal.</p>
<p>Low Density character of the area is not maintained</p>	<p>The current character of the neighbourhood is of low density residential in nature, which consists of mainly single, and two storey detached dwelling houses. The area is not undergoing a transition and the desired future character under the PFTHLEP is for low-density residential developments.</p> <p>The character and scale of proposed development does not achieve the desired outcomes anticipated by the SEPP (Seniors) 2004 nor is it considered to be residential-compatible or small-scale. The subject site is considered to be unsuitable for the proposed facility.</p> <p>This forms part of the recommendation for refusal.</p>
<p>Streetscape Unacceptable impacts on the streetscape will occur as a result of the proposal.</p>	<p>The locality is primarily characterised by single and double storey residential dwellings as well as dual occupancies of a 2-storey nature. The development does not meet the existing and future desired character of Murray Farm Road and Watton Road given the R2 Low Density zoning applying to the land. The locality is primarily characterised by single and double storey developments. The visual presentation of the building has perceivable impact on the streetscape due to the bulk and scale of the building and fails to achieve an appropriate streetscape outcome.</p> <p>Further, the appearance of the proposed development does not enhance the streetscape or complement surrounding development. The proposal fails to satisfy the Objectives of this Part of the HDCP 2012.</p> <p>This forms part of the recommendation for refusal.</p>
<p>Visual and Aural Amenity Impacts Concern regarding visual and amenity impacts for neighbouring properties.</p>	<p>With regard to visual and acoustic privacy, it is considered that the proposed development has been designed to minimise the likelihood of any adverse overlooking or intrusion of aural privacy of adjoining properties. This has been achieved by providing sufficient setbacks, screening elements, and the siting of windows away from shared boundaries.</p> <p>An Acoustic Report, prepared by Acoustic Logic (dated 19 October 2021) was submitted as part of this Development Application. The report concludes:</p> <p><i>Noise emissions from the operation of the facility have been assessed. It is concluded that the facility will not adversely impact any of the surrounding receivers provided the recommendations of the report are adopted.</i></p>

	<p>Council's Environmental Health Officer reviewed the report and raised no objections to the findings.</p> <p>Had the application been recommended for approval, appropriate conditions of consent would have been imposed requiring the recommendations of the Acoustic Report to be incorporated into the design of the development.</p>
<p>Traffic Movements and Congestion/Parking</p> <p>Unacceptable increase in traffic movements and congestion and parking.</p> <p>Access to the loading dock.</p>	<p><i>Parking and Access/Manoeuvring</i></p> <p>Council's Traffic Engineer has reviewed the proposal and concluded that that the proposed access and egress arrangements will ensure that parking areas are readily accessible useable and adequately provide for circulation and manoeuvring of vehicles.</p> <p>Had the application been recommended for approval, appropriate conditions of consent would have been imposed relating to parking and access.</p> <p><i>Traffic Generation</i></p> <p>Clause 2.121 applies to the development of a new premises of a relevant size or capacity. For the purpose of defining traffic generating development, which is of a relevant size and capacity, the SEPP refers to Schedule 3. Schedule 3 does not specifically define Seniors Housing, however, for the purpose of this assessment, the proposal is defined as 'any other purpose'. For development, for 'any other purpose', the Clause applies to development which generates 200 or more motor vehicles per hour.</p> <p>A Traffic Impact Assessment (TIA), prepared by Ason Group (dated 14 October 2021) was submitted as part of this Development Application. The TIA concluded that a total of 35 trips will be generated per day, and noted:</p> <p><i>The analysis further demonstrated that the net traffic generation volumes are of a sufficiently low order that once distributed onto the surrounding road network, the impacts of these volumes at the key intersections would be negligible and the intersections would operate very close to existing.</i></p> <p>Council's Traffic Engineer reviewed the proposal with regarding to traffic generation and noted:</p> <p><i>A Traffic Impact Assessment, prepared by Ason Group (dated 14 October 2021) was submitted with the Development Application. The report undertook SIDRA modelling for the Murray Farm Rd/Oakes Rd and Oakes Road/Carmen Dr/Coral Tree Dr intersections. The result of the SIDRA analysis indicates that the net increase in traffic volumes generated by the Site would result in minimal increases in delay at the key intersections. The report, then, concludes that the impacts of these volumes at the key intersections would be negligible and the intersections would operate very close to how they currently do.</i></p> <p>It is considered that the intensity and nature of the proposal is compatible with road capacity and function. Both vehicle and pedestrian safety will be maintained. The proposal provides for well-designed and safe vehicle and pedestrian access and loading area.</p>
<p>Loading Dock</p> <p>Concerns with access to this area.</p>	<p>Vehicle and pedestrian access to the proposed loading dock will be via a swipe card/key system only. Residents, or visitors to the site will not be able to gain access to the facility without a swipe card/key.</p>
<p>Amenity</p> <p>Concerns for future residents (solar access).</p>	<p>The proposed development fails to ensure adequate daylight to the main living areas of residents and adequate sunlight to the courtyard areas within the development, in particular the and the lower ground floor and ground floor main living areas and the lower ground floor courtyard.</p>

<p>Concerns for future residents (subterranean environment).</p>	<p>Further, it is considered that the proposed retaining walls along the southern and western boundaries are excessive in height and will restrict daylight access into proposed Units 1 through to 4, and 13 through to 16 on the ground floor, and create a subterranean environment.</p> <p>This will result in a poor amenity outcome for future residents in regard to solar access. This forms a reason for the refusal of the application</p>
<p>Excavation Concerns regarding the extent of excavation proposed.</p>	<p>The extent of excavation is required for the construction of the proposed basement.</p> <p>The scale and location of the proposed earthworks will not adversely affect the visual quality and amenity values of adjoining properties as the earthworks are localised to the vicinity of the site. The proposed earthworks will not change the line of the landscape or affect any existing structures or water bodies.</p> <p>The earthworks are proposed to be undertaken in a way that avoids, remedies or mitigates adverse effects on the environment.</p> <p>Had the application been recommended for approval, appropriate conditions of consent would have been imposed.</p>
<p>Flooding Concerns regarding flooding, and associated impacts.</p>	<p>This Development Application was referred to Catchment Engineer, who concluded that the Flood Risk Management report prepared by Umwelt Environmental and Social Consultants, dated 25 October 2021, is generally acceptable.</p> <p>Had the application been recommended for approval, suitable conditions of consent would have been imposed regarding implementation of the Flood Risk Management report.</p>
<p>Tree Removal Concerns regarding the extent of tree removal proposed.</p>	<p>The application proposes the removal of 23 trees from the site.</p> <p>It is considered that the removal of 23 of the 48 trees on site will not have an adverse impact of the ecological, heritage, aesthetic and cultural significance of the area. The proposed replacement planting and mitigation measures will ensure that the development will not result in an unacceptable loss of amenity values or finite natural resources. The development as a whole will positively contribute to ensuring a sustainable urban forest canopy in the Parramatta Local Government Area.</p> <p>Further, Council's Tree Management Officer reviewed the amended Arborist report and tree protection plan and advised that no objection is raised to the removal 23 of the 48 trees on the subject site, and one (1) tree within the public domain along Watton Road.</p> <p>Had the application been recommended for approval, appropriate conditions of consent relating to tree removal and management, and tree protection would have been imposed.</p>
<p>Water Course Concerns regarding the impact to the existing water course.</p>	<p>Due to the location of the existing water course, and the proposed extent of excavation the Development Application was referred to Water NSW.</p> <p>Water NSW reviewed the proposal and requested additional information with regard to the water supply works.</p> <p>Specifically, Water NSW requested confirmation that:</p> <ul style="list-style-type: none"> <i>The structures below the predicted highest groundwater table are waterproof (tanked basement) and dewatering management program is designed considering the Minimum requirements for building site groundwater investigations and reporting. Note: Department of Planning, Industry & Environment (DPIE) require the perimeter walls and floor of the basement being constructed using a 'tanked' (waterproof) construction method</i>

	<p>Details regarding the volume of water proposed to be extracted, duration of the water take for de watering and methods proposed were also requested.</p> <p>A response to the additional information was provided by the Application on 23 March 2022.</p> <p>On 5 May 2022 Water NSW provided General Terms of Approval relating to the proposal. No further objections were raised.</p>
Inaccurate and inconsistent documentation	<p>Certain information submitted by the applicant is insufficient and is not considered an accurate representation of the site and its surrounds.</p> <p>This forms a reason for the refusal of the application.</p>
Safety Concerns regarding pedestrian safety for future residents.	<p>As detailed in this report, Council shares concern regarding the safety of pedestrians.</p> <p>This forms a reason for the refusal of the application</p>
Safety Concerns regarding safety for future residents.	<p>A Crime Risk Assessment prepared by NEAL Consulting Solutions (dated 25 October 2021) was submitted with the application.</p> <p>The assessment has concluded that that a CPTED rating of 'low' has been achieved by this proposal. The assessment further states that all requirements of the NSW Police CPTED checklist are complied with.</p> <p>The proposed development provides personal property security for residents and visitors and encourages crime prevention.</p> <p>Had the application been recommended for approval, appropriate conditions of consent would have been imposed implementing the recommendations of this assessment.</p>
Land Contamination Concerns regarding the existing site, and contaminated land.	<p>Site remediation and validation works were completed at 43-47 Murray Farm Road in 2015.</p> <p>The application along with the ESA submitted by the applicant was reviewed by Council's Environmental Health team who determined that satisfactory evidence has been provided that the site can be made suitable for the proposed development subject to conditions of consent.</p> <p>The following is noted:</p> <p>State Environmental Planning Policy (Resilience and Hazards) 2021 applies to the land. Clause 4.6 of this Policy requires that the consent authority must consider if land is contaminated and, if so, whether it is suitable, or can be made suitable, for a proposed use. In considering this matter it is noted:</p> <ul style="list-style-type: none"> • The site has previous history as being contaminated. The site have a history of a previous land use that may have caused contamination • As discussed above, the applicant has submitted an Environmental Site Assessment (ESA) as part of the development application which concludes that the risk of exposure to future users of the site is low and not unacceptable. The risk to offsite receptors is also low and not unacceptable. It is noted that the report also conclude that the site can be made suitable for the proposed development subject to the recommendations within the report. <p>Therefore, in accordance with Clause 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021, the land is suitable for the proposed development being a residential care facility.</p> <p>Had the application been recommended for approval, appropriate conditions of consent would have been imposed relating asbestos, site audit statement,</p>

	site investigation and contamination would be incorporated into a notice of determination.
Proximity to other Residential Care Facilities	<p>Submissions received have raised concern that there are already a number of facilities within an 8km radius of the subject site.</p> <p>There are no controls that limit the number of Aged Care Facilities and therefore is not a matter for consideration under Section 4.15 of the EP&A Act 1979.</p>
Construction Impacts Concerns regarding associated construction impacts including noise, dust, trucks, cranes, sediment control and deliveries.	There are provisions under the Protection of the Environment Operation Act 1997 that protect the amenity of residents in relation to noise and vibration issues. Had this application been recommended for approval, appropriate conditions would have been included in the recommendation to ensure that traffic, noise and vibration during the construction of the building and associated site works are carried out within the permitted hours and would not result in an unreasonable loss of amenity to nearby residents.

19. Public interest

Based on the assessment contained in this report, approval of the development is contrary to the public interest, and as such shall form a reason for refusal.

20. Conclusion

The proposal has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979. The proposal is not consistent with the relevant requirements of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, Parramatta (former The Hills) Local Environmental Plan 2012 (LEP 2012), The Hills Development Control Plan 2012 (HDCP 2012) and Draft Parramatta Local Environmental Plan 2020 (DLEP 2020).

The scale of the development results in unacceptable amenity impacts on adjoining residential developments and will detract from the character of the low density residential area.

On balance, the proposal demonstrates an unsatisfactory response to the objectives and controls of the applicable planning framework. The proposal is not suitable for the site and is not in the public interest. As such, the application is recommended for refusal.

21. Recommendation

Pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act, 1979:

- A. **That** Local Planning Panel, exercising the function of the consent authority, **refuse** development consent to DA/1057/2021 for the for the demolition of existing structures, tree removal and construction of a part two (2) and part three (3) storey residential care facility comprising of 110 beds on land at 43-47 Murray farm Road, No.13 and No 19 Watton Road, Carlingford, for the following reasons:

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

- Clause 26: The proposal does not adequately address that the residents of the proposed development will have access to local retail, commercial, and medical facilities.
- Clause 29: The proposed development is not compatible with surrounding land uses.
- Clause 30: The submitted site analysis was not prepared in accordance with Clause 30 of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
- Clause 33: The proposed development does not maintain a reasonable neighbourhood amenity and appropriate residential character by failing to adopt a building height that is compatible in scale with adjacent developments.
- Clause 35: The proposed development fails to provide adequate solar access to the living areas and private open space for the future residents of the Residential Care Facility.

- f) Clause 36: It has not been demonstrated that the disturbance and impacts on adjoining properties will be minimised.
- g) Clause 38: Safe pedestrian links from the site that provide access to public transport services or local facilities are not provided.
- h) Clause 40(4)(b): The proposal breaches the number of storeys control stipulated under this Clause.

2. Parramatta (former The Hills) LEP 2012

- a) Clause 1.2(a) and (d) 'Aims of Plan': The subject application fails to provide an orderly and sustainable built environment that is compatible within the local context of the area.
- b) Clause 2.3: The proposal fails to comply with the objectives of a low density residential zone objectives in that it does not satisfactorily maintain the existing low density residential character of the area.
- c) Clause 7.2: The proposal fails to ensure that earthworks will not have a detrimental impact on the subject site, and its likely future use being a Seniors Living facility.

3. The Hills Development Plan 2011

- a) Part 2.5 (Streetscape and Character): The proposal fails to comply with the Objectives of Part 2.5 (Streetscape and Character).
- b) Part 2.12 (Stormwater): It has not been demonstrated that the disturbance and impacts on adjoining properties will be minimised.

4. The Public Interest

- a) The development would result in an adverse environmental and amenity impact on the surrounding built environment and not be consistent with the existing streetscape.
- b) The development is considered an overdevelopment of the site as the operation of the facility results in undesirable amenity impacts for future residents and adjoining properties, and unacceptable pedestrian safety impacts within the locality.
- c) The adverse impacts by the development due to non-compliances with the applicable planning controls are not beneficial for the local community and as such, are not in the wider public interest.

2. Further, that the objectors be advised of the Panel's decision.