

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA20/0178.01
Proposed development:	Section 4:55 (1A) Modification to include Villa 9 of an Approved Seniors Living Development for the temporary use as a Community Facility
Property address:	1 Hortsmann Circuit, JORDAN SPRINGS NSW 2747
Property description:	Lot 1 DP 1248137
Date received:	28 October 2020
Assessing officer	Jane Hetherington
Zoning:	URBAN ZONE (SREP30 - ST MARYS)
Class of building:	Class 5 , Class 9b
Recommendations:	Approve

Executive Summary

Council is in receipt of a Section 4.55(1A) application to include Villa 9 of an approved seniors living development for the temporary use as a community facility at 1 Hortsmann Circuit Jordan Springs.

The subject site is zoned Urban under the provisions of Sydney Regional Environmental Plan No. 30 - St Marys (SREP 30). The proposal is a permissible land use in the zone subject to the provisions of Part 6 and Clause 48 of SREP 30.

The application has been notified in accordance with Penrith Development Control Plan 2014. No submissions were received in response.

An assessment under Section 4.15 and Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* has been undertaken and the application is recommended for approval, subject to the modified conditions.

Site & Surrounds

Properties of the site

The site is located within the Jordan Springs estate (which forms part of the St Marys Release Area) and is legally described as Lot 1 in DP 1248137. The site has an area of 3.1 hectares and has a primary street frontage to Jordan Springs Boulevard. The site currently contains approved Jordan Springs Senior Living Stage 1 villas which are under construction. The site is bound by the Wianamatta Regional Park to the south, an artificial waterbody (dam) to the west and to the north and east of the site is Jordan Springs Estate, comprising residential, commercial and public open spaces. The Jordan Springs Town Centre is located to the immediate north and north-east of the site.

Site constraints

- The site is partly mapped as bushfire prone land. - Vegetation on the site is mapped as Shale Plains Woodland.

History

DA18/0678 for the Staged Concept Development comprising Stage 1 works involving the construction of 51 seniors living villas, civil works and landscaping and stage 2 concept development for future independent living units was approved by the Sydney Western City Planning Panel on 16 February 2019. The subject application includes using one of the villas (villa 2) as a temporary community facility and sales office.

On 12 August 2020 Council staff approved DA20/0178 for the temporary use of Villa 2 of an approved seniors living development as a sales office and community facility.

Proposal

The application seeks to modify:

- Seeks to use Villa 8 as a temporary community facility, in addition to Villa 2, until the construction of Building A in the adjoining community facility is complete.
- Villa 9 will be used as overflow space if there is insufficient space in villa 2.
- No changes to the operating hours are proposed.
- No physical works are proposed.

Plans that apply

- **Section 4.46 - Integrated development**

Section 4.46 of the EP&A Act outlines the types of developments deemed to be defined as “Integrated Development”. The original determination required concurrence from the NSW Rural Fire Service in accordance with this section of the Act. Accordingly, the application was referred to the NSW Rural Fire Service (RFS) on the 17 April 2020. The NSW RFS issued their General Terms of Approval on 15 June 2020, raising no objection to the proposal subject to conditions. These conditions formed part on the original consent. The subject modification was also referred to the NSW RFS who advised in a letter dated 14 January 2021 that they had no objection to the modification subject to the original conditions dated 15 June 2020. These have been carried across to the modified consent.

- **Section 4.55(1A) - Modifications involving minimal environmental impact**

This modification application has been lodged pursuant to Section 4.55 (1A) of the *Environmental Planning and Assessment Act 1979*. To be considered under this section the consent authority must be satisfied that the proposed modification:

- (a) is of minimal environmental impact;
- (b) results in the modified consent being substantially the same development as the originally granted development (before any other modifications were granted, if any); and
- (c) has been notified in accordance with the Penrith DCP and any submission taken into account.

In this regard, it is considered that the proposed modification meets all three pre-requisites above. The temporary use of villa 9 as a community facility, when there is insufficient space in Villa 2, is of minimal environmental impact and is consistent with the impacts assessed as part of the approved DA. The development, as proposed to be modified, is considered substantially the same development as the development for which consent was originally granted. The modification application has been notified in accordance with Council's DCP and no objections have been received.

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

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

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

Context and Setting

No physical works are proposed under the subject modification application. As such, the proposal is not considered to have an adverse impact on the context and setting of the surrounding locality.

Traffic, Access & Parking

The original proposal sought to utilize the 7 visitor car spaces adjacent to Villa 2 and the on-site parking within the Villa 2 site. This was considered satisfactory, given the temporary nature of the proposal and its scale. While no additional parking spaces are proposed under the modification application, given that the proposal seeks to utilize villa 9 for overflow space for the community facility, it is not considered necessary.

The proposal is not considered to generate additional traffic above that considered in the Traffic Impact Assessment (TIA) submitted with the Stage 1 Seniors Living Development (approved under DA18/0678) given the low staff and patron capacity numbers. The TIA demonstrated that there would not be an adverse impact on the surrounding road network.

Noise Impacts

The proposed temporary use is not anticipated to generate noise levels above that of the relevant noise criteria detailed in the acoustic assessment submitted with DA18/0678. Further, a condition of consent is recommended limiting the hours of operation of both the sales office and the community facility.

Social Impact

The proposal will provide additional space for the residents of the stage 1 seniors living development to socialise and undertake recreational activities until the permanent community facility is built.

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

The proposed modifications to the development do not alter the suitability of the site for the development.

Section 4.15(1)(d) Any Submissions

Community Consultation

The original development application was advertised in the local newspaper and notified to owners and occupiers of adjoining and nearby properties pursuant to the requirements of the Regulations and in accordance with Council's Development Control Plan. The subject modification application was also advertised and notified to nearby and adjoining property owners and occupiers, with the exhibition period being from 9 to 23 November 2020. No submissions were received in response.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions

Section 4.15(1)(e) The public interest

The proposed modifications to the development will not generate any significant issues of public interest.

Conclusion

The proposed modifications to the development have been assessed against the relevant heads of consideration contained in Section 4.15 and Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 and have been found to be satisfactory. Each of the relevant criteria under Section 4.55(1A) of the Act has been satisfied. The development as modified will result in minimal environmental impact only and is substantially the same development as originally approved. The proposed modifications to the development are therefore worthy of Council's support.

Recommendation

That the subject Section 4.55(1A) modification application to include Villa 9 of an approved seniors living development for the temporary use as a community facility at 1 Hortsmann Circuit, Jordan Springs, be approved subject to the following condition amendments (refer to Condition 5 & 6).

CONDITIONS

General

1 [A001 - Approved plans table](#)

The development must be consistent with the plans stamped approved by Council, the application form and any supporting information received with the application and by the following conditions.

2 [A019 - OCCUPATION CERTIFICATE \(ALWAYS APPLY\)](#)

The development shall not be used or occupied until an Occupation Certificate has been issued.

3 [A029 - HOURS OF OPERATION AND DELIVERY TIMES](#)

The approved operating hours are from 9:00 am to 5:00 pm Mondays to Sundays for the sales office and 9:00 am to 10:00 pm Mondays to Sundays for the community facility.

4 [A044 - Compliance with NSW Rural Fire Service conditions of consent](#)

The conditions imposed by the NSW Rural Fire Service in the Integrated Development consent and in the Bush Fire Safety authority for the said development are to be completed prior to the issue of an Occupation Certificate.

5 [A Special \(BLANK\)](#)

The use of Villa 2 and Villa 9 for a community facility and sales office is to cease upon issue of an Occupation Certificate for DA19/0808 or within 5 years of the date of this consent, whichever comes first.

As amended on 27 January 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

6 [A Special \(BLANK\)](#)

The Plan of Management, prepared by Lendlease and dated 15 October 2020, shall be implemented in its entirety.

As amended on 27 January 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

BCA Issues

7 [E004 - Floor wastes](#)

In accordance with Clause 93 of the Environmental Planning and Assessment Regulation 2000 the following works are to be completed to ensure the fire safety of the occupants;

- Portable fire extinguishers are to be provided in accordance with Part E of the Building Code of Australia (BCA).
- Required exit doors are to be fitted with latching devices to hold them in the open position in accordance with Part D of the BCA.

8 [E006 - Disabled access and facilities](#)

Access for persons with disabilities is to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility".

9 [E01A - BCA compliance for Class 2-9](#)

All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

- (a) complying with the deemed to satisfy provisions, or
- (b) formulating an alternative solution which:
 - complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/ statement for the building.

Certification

10 Q01F - Notice of Commencement & Appointment of PCA2 (use for Fast Light only)

Prior to the commencement of any earthworks or construction works on site, the proponent is to:

(a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act 1979, and accompanying Regulation, and

(b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing of site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.