



New South Wales Government  
Independent Planning Commission

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# Neringah Seniors Housing & Hospital

## SSD 45121248

### Statement of Reasons for Decision

Adrian Pilton (Chair)  
Wendy Lewin  
Michael Wright

12 February 2024

## Executive Summary

HammondCare (the Applicant) has sought consent for the demolition of the existing hospital building, kiosk and ancillary structures and construction of an integrated seniors housing and health services facility at the Neringah Hospital, 4-12 Neringah Avenue South, Wahroonga (the Project). The Project represents an investment of over \$82 million and would generate approximately 89 construction jobs and 15 operational jobs.

The NSW Independent Planning Commission is the consent authority for the Project because an objection was received from Ku-ring-gai Council.

Commissioners Adrian Pilton (Chair), Wendy Lewin and Michael Wright were appointed to constitute the Commission Panel in making the final decision. The Commission undertook a site inspection and met with the Department of Planning, Housing and Infrastructure (formerly the Department of Planning and Environment), Ku-ring-gai Council and the Applicant.

Key issues which are the subject of findings in this Statement of Reasons for Decision relate to built form and design, open space, public domain and landscaping, accessibility, residential amenity, traffic and parking. After careful consideration, the Commission has determined that consent should be granted to the development application, subject to conditions to manage and mitigate matters including accessibility, privacy, residential amenity and traffic.

The Commission has imposed several conditions to strengthen the environmental management of the development, including the requirement for an Accessibility Assessment to determine if a raised pedestrian crossing is required on Neringah Avenue South and design amendments to improve residential amenity and the integration of the Project with the surrounding character of Wahroonga.

The Commission finds that the Project is consistent with the existing strategic planning framework as it will provide services and infrastructure to meet the needs of an ageing population and create opportunities for further establishment of health and support networks. The Commission finds that the Project is in accordance with the Objects of the EP&A Act and is in the public interest.

The Commission's reasons for approval of the Project are set out in this Statement of Reasons for Decision.

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## Defined Terms

<b>ABBREVIATION</b>	<b>DEFINITION</b>
<b>ADG</b>	Apartment Design Guide
<b>Applicant</b>	HammondCare
<b>Application</b>	SSD Application for the demolition of the existing structures and construction of an integrated seniors housing and health services facility at the Neringah Hospital, 4-12 Neringah Avenue South, Wahroonga
<b>AR para</b>	Paragraph of the Department's Assessment Report
<b>Commission</b>	NSW Independent Planning Commission
<b>Council</b>	Ku-ring-gai Council
<b>Department</b>	Department of Planning, Housing and Infrastructure
<b>Department's AR</b>	Department's Assessment Report, dated December 2023
<b>EIS</b>	Environmental Impact Statement
<b>EP&amp;A Act</b>	Environmental Planning and Assessment Act 1979
<b>EPI</b>	Environmental Planning Instrument
<b>ESD</b>	Ecologically Sustainable Development
<b>KDCP</b>	Ku-ring-gai Development Control Plan
<b>KLEP 2015</b>	Ku-ring-gai Local Environmental Plan 2015
<b>LGA</b>	Local Government Area
<b>Mandatory Considerations</b>	Relevant mandatory considerations, as provided in s 4.15(1) of the EP&A Act
<b>Material</b>	The material set out in section 3.1
<b>Minister</b>	Minister for Planning and Public Spaces
<b>Planning Systems SEPP</b>	State Environmental Planning Policy (Planning Systems) 2021
<b>Project</b>	Demolition of the existing hospital building, kiosk and ancillary structures and construction of an integrated seniors housing and health services facility at the Neringah Hospital.
<b>Regulations</b>	Environmental Planning and Assessment Regulation 2021
<b>RFI</b>	Request for Information
<b>RtS</b>	Response to Submissions
<b>Seniors SEPP</b>	State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
<b>Site</b>	Lot 52 DP 2666, Lot 1 DP 1199937 and Lot 1 DP 960051, 2-12 Neringah Avenue South, Wahroonga
<b>SSD</b>	State Significant Development
<b>Transport and Infrastructure SEPP</b>	State Environmental Planning Policy (Transport and Infrastructure) 2021

# 1. Introduction

1. On 1 December 2023, the NSW Department of Planning, Housing and Infrastructure (**Department**) referred State significant development (**SSD**) application SSD-45121248 (**Application**) from HammondCare (**Applicant**) to the NSW Independent Planning Commission (**Commission**) for determination.
2. The Application seeks approval for the Neringah Seniors Housing and Hospital (**Project**) under section 4.38 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.
3. The Application constitutes SSD under section 4.36 of the EP&A Act and under section 28 of Schedule 1 of the *State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP)*.
4. The Project is located in the Ku-ring-gai Local Government Area (**LGA**). In accordance with section 4.5(a) of the EP&A Act and section 2.7 of the Planning Systems SEPP, the Commission is the consent authority as the Department received an objection from Ku-ring-gai Council.
5. Professor Mary O’Kane AC, Chair of the Commission, determined that Mr Adrian Pilton (Chair), Ms Wendy Lewin and Mr Michael Wright would constitute the Commission for the purpose of exercising its functions with respect to the Application.
6. The Department provided its Assessment Report (**AR**) and recommended conditions of consent to the Commission on 1 December 2023. The Department concluded that the Project would help support the changing needs of an ageing population, is in the public interest and is approvable, subject to conditions.

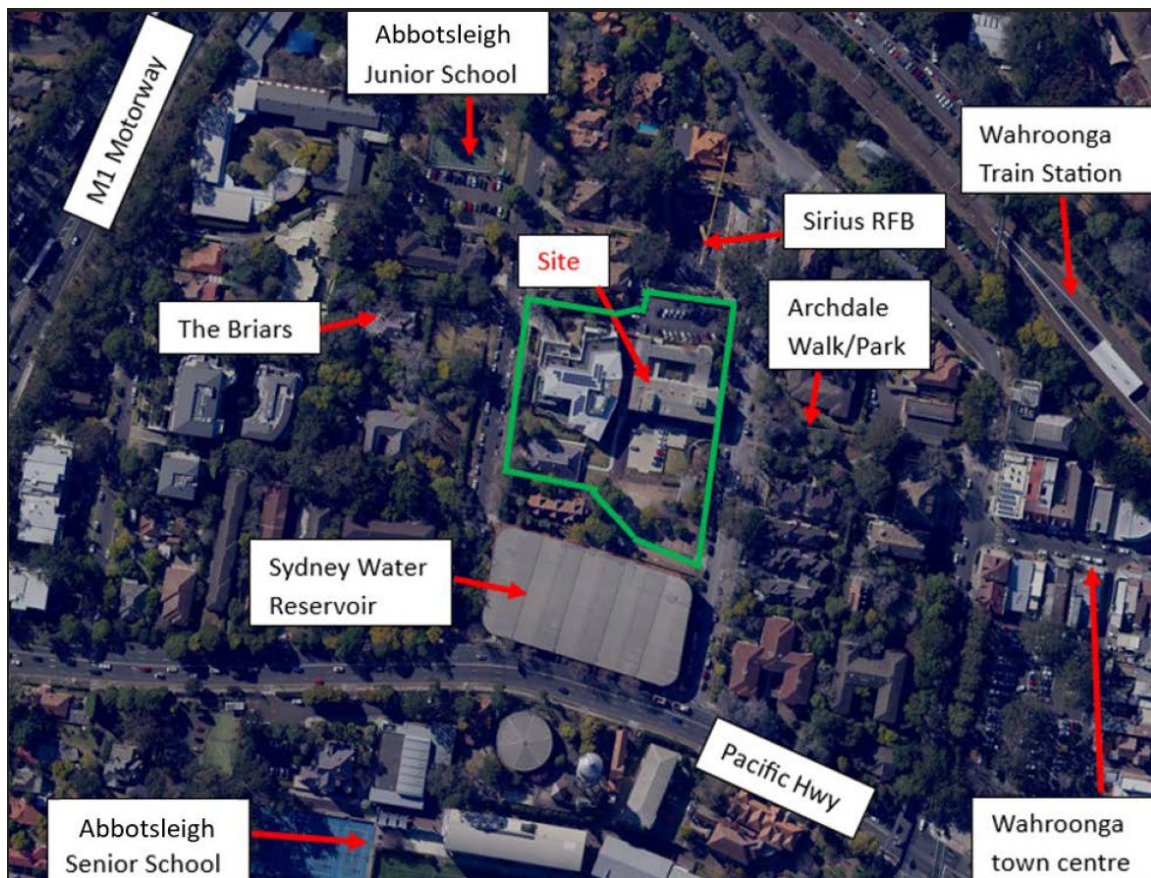
## 2. The Application

### 2.1 Site and Locality

7. The ‘site’ is located at 2-12 Neringah Avenue South, Wahroonga (Lot 52 DP 2666, Lot 1 DP 1199937 and Lot 1 DP 960051) (**Site**). According to paragraph 1.2.2 of the Department’s Assessment Report (**AR para**), the Site is approximately 19 kilometres (km) north west of the Sydney central business district (CBD), 2 km south-east of Hornsby CBD and 150 metres (m) west of Wahroonga town centre.
8. The Site is currently operated by HammondCare as Neringah Hospital and provides palliative care services. The Site contains Woonona Cottage, a locally listed heritage item under Ku-ring-gai Local Environmental Plan 2015 (**KLEP 2015**) that HammondCare currently uses for administration purposes. The western portion of the Site contains Stage 1 of the hospital redevelopment.
9. The eastern portion of the Site is the Stage 2 site (subject of this SSD) This portion is currently occupied by a four storey brick hospital building, car parking, small kiosk, ancillary services and an approximately 1.2 m high sandstone wall.

10. The surrounding development comprises a Sydney Water heritage listed reservoir (under KLEP 2015), a 2 storey dwelling to the south, a 5 storey residential flat building and a 2 storey residential flat building to the north, Archdale Park and Archdale Walk to the east, and “The Briars” (a heritage listed dwelling under KLEP 2015) and a neighbourhood park to the west. The further surrounding development comprises mostly 2-3 storey residential developments and Abbotsleigh Junior School. The Site’s location and local context is illustrated in Figure 1.

Figure 1 - Local Context Map (Source: Department’s AR Figure 2)



## 2.2 Existing Operations

11. Stage 1 of the redevelopment was approved by the Sydney North Regional Planning Panel on 16 August 2012 (DA0058/12) and was completed in 2016. This stage includes 54 additional residential aged care beds and a specialist dementia care facility.

## 2.3 The Project

12. The Applicant is seeking approval for Stage 2 of the redevelopment, being the demolition of the existing structures and construction of an integrated seniors housing and health services facility at the Site. The key components of the Project are set out in Table 1 below, as identified in AR para 2.1.1 and Table 1 of the Department’s AR.

Table 1 – Summary of works proposed in the Application

Aspect	Proposal
<b>Demolition and Site Preparation</b>	<p>Demolition of the following existing structures:</p> <ul style="list-style-type: none"> <li>• Neringah Hospital building;</li> <li>• kiosk; and</li> <li>• car parks.</li> </ul> <p>Site preparation works include clearing of vegetation, bulk earthworks and remediation.</p>
<b>Built Form</b>	<p>Construction and operation of an integrated seniors housing and health services facility across two buildings (up to 5 storeys) including:</p> <ul style="list-style-type: none"> <li>• 12 residential aged care facility beds;</li> <li>• 18 palliative care hospice beds;</li> <li>• 57 self-contained dwellings for seniors;</li> <li>• community healthcare services, including outpatient palliative care, centre for positive ageing and Hammond at Home;</li> <li>• on-site administration, amenities and ancillary operations including salon, café, pharmacy and chapel; and</li> <li>• connection to the existing Stage 1 development with a new library and staff area.</li> </ul>
<b>Other Works</b>	<p>Other works include:</p> <ul style="list-style-type: none"> <li>• 2 level basement with 130 car parking spaces;</li> <li>• ground level and on-building landscape works;</li> <li>• a publicly accessible through-site pedestrian link connecting Archdale Park to the east and Balcombe Park to the west;</li> <li>• off-site public domain works including the upgrade of Archdale Walk; and</li> <li>• extension and augmentation of infrastructure and services.</li> </ul>

### 3. The Commission's Consideration

#### 3.1 Material Considered by the Commission

13. In this determination, the Commission has considered the following material (**Material**):
- the Secretary's Environmental Assessment Requirements (SEARs) issued by the Department, dated 24 June 2022;
  - the Applicant's Environmental Impact Statement (**EIS**) and supplementary information including the Applicant's Response to Submissions (**RtS**) and Request for Information (**RFI**) responses dated 31 July 2023, 28 November 2023 and Landscape Plans dated 29 September 2023;
  - all submissions on the EIS made to the Department during public exhibition;
  - all Government Agency advice to the Department;
  - the Department's AR, dated December 2023;
  - the Department's recommended conditions of consent, dated December 2023;
  - comments and presentation material at meetings with the Department, Applicant and Ku-ring-gai Council, as referenced in Table 3 below;

- Council's submissions to the Commission, dated 10 January 2024 and 11 January 2024;
- the Department's submission to the Commission, dated 12 January 2024;
- all written comments received by the Commission up until 5pm, 17 January 2024;
- the Department's comments on the feasibility and workability of proposed conditions, dated 1 February 2024.

## 3.2 Strategic Context

14. The Department, at section 3 of its AR, states that the Project is consistent with the priorities of relevant strategic plans, including the Greater Sydney Region Plan, North District Plan 2018, State Infrastructure Strategy 2022-2042 and Ku-ring-gai Local Strategic Planning Statement (LSPS).
15. The Commission has considered the strategic planning policies and guidelines relevant to the Site and the Project. The Commission agrees with the Department's view that the Project is consistent with the strategic planning framework as it will provide services and infrastructure to meet the needs of an ageing population and create opportunities for older community members to continue living in their community with established health and support networks.
16. The Commission notes that the Project represents an investment of over \$82 million and would generate up to 89 construction jobs and up to 15 operational jobs.

## 3.3 Statutory Context

### 3.3.1 State significant development

17. The Application is SSD under section 4.36 of the EP&A Act and under section 28 of Schedule 1 of the Planning Systems SEPP as it provides for seniors housing with a capital investment value in the Greater Sydney region of more than \$30 million, includes a residential care facility and there are no prohibited components of the development.

### 3.3.2 Permissibility

18. The Site is located within the R2 Low Density Residential and R4 High Density Residential zones under the KLEP 2015.
19. Under clause 15(a) of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP)*, seniors housing is a permissible use on lands zoned primarily for urban purposes provided it is carried out in accordance with the Seniors SEPP. Additionally, under sections 2.59 and 2.60 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)* the R4 High Density Residential zone is identified as a prescribed zone and development for the purpose of health services facilities can be carried out.

### 3.3.3 Other approvals

20. The Commission notes and acknowledges that some SSD projects require approvals under other legislation in addition to development consent under the EP&A Act.



21. In AR para 4.4.2 the Department notes that under section 4.42 of the EP&A Act, if specified further approvals are required, they cannot be refused if they are substantially consistent with any development consent for the proposal. The Department notes that under section 4.42(1)(f) of the EP&A Act, Council cannot refuse consent to an application for upgrade works to Archdale Walk under section 138 of the *Roads Act 1993*.

### 3.4 Mandatory Considerations

22. In determining this Application, the Commission is required by section 4.15(1) of the EP&A Act to take into consideration such of the listed matters as are of relevance to the development the subject of the Application (**Mandatory Considerations**). The mandatory considerations are not an exhaustive statement of the matters the Commission is permitted to consider in determining the Application. To the extent that any of the Material does not fall within the mandatory considerations, the Commission has considered that Material where it is permitted to do so, having regard to the subject matter, scope and purpose of the EP&A Act.

*Table 2 – Mandatory Considerations*

<b>Mandatory Considerations</b>	<b>Commission's Comments</b>
<b>Relevant Environmental Planning Instruments (EPIs)</b>	<p>Appendix C of the Department's AR identifies relevant EPIs for consideration. The key EPIs (in their present, consolidated form) include:</p> <ul style="list-style-type: none"> <li>• Planning Systems SEPP;</li> <li>• Seniors SEPP;</li> <li>• Transport and Infrastructure SEPP;</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP);</li> <li>• State Environmental Planning Policy (Industry and Employment) 2021 (Industry and Employment SEPP);</li> <li>• State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development;</li> <li>• KLEP 2015; and</li> <li>• Draft State Environmental Planning Policy (Remediation of Land).</li> </ul> <p>The Commission agrees with the Department's assessment of EPIs set out in Appendix C of the AR. The Commission therefore adopts the Department's assessment.</p>
<b>Relevant DCPs</b>	<p>Section 2.10 of the Planning Systems SEPP states that development control plans do not apply to SSD. The Commission does not consider any development control plans to be relevant to the determination of the Application.</p>
<b>Likely Impacts of the Development</b>	<p>The likely impacts of the Application have been considered in section 5 of this Statement of Reasons.</p>
<b>Suitability of the Site for Development</b>	<p>The Commission has considered the suitability of the Site and finds that the Site is suitable for the following reasons:</p> <ul style="list-style-type: none"> <li>• the proposed use is permissible with consent;</li> <li>• the Project will help meet the changing needs of the community;</li> <li>• the Project meets the objectives of the R2 Low Density Residential and R4 High Density Residential zones;</li> </ul>

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	<ul style="list-style-type: none"> <li>the Site Compatibility Certificate (SCC) has concluded that the site is suitable for more intensive development;</li> <li>the environmental impacts have been minimised as far as practicable and are capable of being further managed through the conditions of consent; and</li> <li>impacts on surrounding land uses have been minimised where possible and are capable of being further mitigated through the conditions of consent.</li> </ul>
<b>Objects of the EP&amp;A Act</b>	In this determination, the Commission has carefully considered the Objects of the EP&A Act and is satisfied that the Application is consistent with the Objects of the EP&A Act.
<b>Ecologically Sustainable Development (ESD)</b>	The Commission finds that the Project is consistent with ESD principles and would achieve an acceptable balance between environmental, economic and social considerations.
<b>The Public Interest</b>	<p>The Commission has considered whether the grant of consent to the Application is in the public interest. In doing so, the Commission has weighed the predicted benefits of the Application against its predicted negative impacts.</p> <p>The Project would economically serve the community by generating approximately 89 construction jobs and approximately 15 new operational jobs for the local area.</p> <p>The Commission's consideration of the public interest has also been informed by consideration of the principles of ESD.</p> <p>The Commission finds that, on balance, the Application is consistent with ESD principles, and that the Project would achieve an appropriate balance between relevant environmental, economic and social considerations. The likely benefits of the Project warrant the conclusion that an appropriately conditioned approval is in the public interest.</p>

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### 3.5 Additional Considerations

23. In determining the Application, the Commission has also considered:

- NSW Noise Policy for Industry (NPfI);
- Interim Construction Noise Guideline (ICNG);
- Greater Sydney Region Plan (GSRP);
- North District Plan 2018 (NDP);
- State Infrastructure Strategy 2022-2042; and
- Ku-ring-gai LSPS.

### 3.6 The Commission's Meetings

24. As part of the determination process, the Commission met with various persons as set out in Table 3. All meeting and site inspection notes were made available on the Commission's website.

*Table 3 – Commission's Meetings*

Meeting	Date	Transcript/Notes Available on
Department	20 December 2023	22 December 2023

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<b>Applicant</b>	20 December 2023	22 December 2023
<b>Council</b>	9 January 2024	11 January 2024
<b>Site inspection</b>	22 December 2023	9 January 2024

### 3.6.1 Ku-ring-gai Council Comments

25. During its meeting with the Commission, Council discussed a number of issues including Archdale Walk, compliance with the Apartment Design Guide (**ADG**), a raised pedestrian crossing and recommended conditions of consent.
26. On 10 January 2024 Council provided a submission to the Commission providing recommended conditions of consent. On 11 January 2024, Council provided its response to questions taken on notice during its meeting with the Commission, including:
- Council's current asset maintenance system in relation to Archdale Walk; and
  - details of discussions with the Applicant regarding the surface treatment of Archdale Walk.

### 3.6.2 Department's Comments

27. On 12 January 2024, the Department provided a response to questions taken on notice during its meeting with the Commission, including:
- additions and amendments to the recommended conditions of consent regarding:
    - the existing sandstone wall along Neringah Avenue South;
    - through site link access; and
    - affordable housing allocation plans;
  - additional information regarding the assessment of traffic impacts to Neringah Avenue South and potential for conflict between loading dock and school traffic vehicles.

## 4. Community Participation & Public Submissions

### 4.1 Public submissions

28. As part of the Commission's consideration of the Project, all persons were offered the opportunity to make written submissions to the Commission until 5pm AEDT 17 January 2024. One email submission was received from Council dated 10 January 2024 which provided:
- recommended conditions of consent;
  - details regarding the need for a raised pedestrian crossing on Neringah Avenue South;
  - concerns regarding the deep soil areas and the encroachment of the basement into the front setback;
  - concerns regarding excessive car parking; and
  - the request for a deferred commencement condition requiring approval for the proposed Archdale Walk works prior to the consent becoming operative.
29. Consideration has been given to this submission in the Commission's determination of the Project (see section 5 below).

## 4.2 Public meeting

30. The Commission did not hold a Public Meeting for this Application given that only 6 objections (including Council's) were received by the Department during public exhibition of the Project.

## 4.3 Site inspection

31. On 22 December 2023, the Commission Panel conducted an inspection of the Site.
32. In accordance with the Commission's Site Inspection and Locality Tour Guidelines, and in line with the Commission's principles of openness and transparency, the Commission Panel may exercise its discretion to invite community observers, in addition to the Applicant, to attend a site inspection. However, in this instance, the Commission Panel determined not to exercise its discretion to invite observers to the site inspection. The Commission Panel was satisfied that the Commission's principles of openness and transparency were met through the publishing of detailed site inspection notes, including photographs, on the Commission's website, as outlined in Table 3 above.

# 5. Key Issues

## 5.1 Built Form and Design

### 5.1.1 Character

33. In its submissions to the Department and its submission to the Commission, Council requested that the proposed face brick work of the new buildings be amended to a red/orange tone similar to the adjoining Sydney Water Reservoir.
34. The Department concludes at AR para 6.2.18 that the proposed brickwork comprised of lighter brick responds to the Stage 1 development to the west and the surrounding urban form.
35. The Department notes in AR par 6.3.36 that in response to Council's request, the Applicant amended the proposal to include retention of sections of the original sandstone wall while reducing the height of the wall to better relate to the adjacent walls. The Commission notes that in the Department's AR para 6.3.40, the Department identifies that a recommended condition of consent has been included to require the Applicant to provide a methodology for retention and alteration of the sandstone wall to the Planning Secretary for approval and to subsequently implement the plan.
36. The Commission notes that the Department has not included such a condition in its referral, however, in its submission to the Commission, the Department have requested the condition be added.

#### *Commission's findings*

37. The Commission considers the amendment of the proposed face brick work to a red/orange tone is appropriate and would align with the existing Sydney Water Reservoir and provide increased integration with the character of the Wahroonga area. Therefore, the Commission has imposed condition B1(f) requiring the preparation of revised plans detailing the amendment for submission to Council's Heritage Advisor for written approval.

38. The Commission is also satisfied that the assessment of the retention of sections of the sandstone wall has been adequately undertaken by the Department and the retention of 50% of the wall in situ is appropriate for the Site. The Commission considers a condition for a Sandstone Wall Retention and Alteration Methodology to be appropriate and has imposed condition C13 for the preparation of the Methodology for approval by the Planning Secretary and condition D14 to ensure implementation of the Methodology during construction.

### 5.1.2 Public domain and landscaping

39. In its meeting with the Commission and in its submission to the Commission, Council raised concerns with the inadequacy of deep soil zones for planting, specifically that the areas of deep soil were disjointed and non-continuous.
40. Clause 50 of the Seniors SEPP includes the following definition of deep soil zones:  
*'if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the area of the site (the deep soil zone).'*
41. Additionally, Council raised specific concern with the encroachment of the basement into the front setback and its impact on the provision of deep soil and substantial planting in this setback and the service driveway on the northern boundary preventing the required 6m landscaped setback under the *Kur-ring-gai Development Control Plan (KDCP)*.
42. Council notes clause 33(a) of the Seniors SEPP which states the proposed development should:  
*'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.'*
43. Council concluded that the lack of adequate deep soil and tree planting in the northern and front setbacks is not consistent with the landscaped character of the area and would not contribute to the quality and identify of the streetscape and therefore does not comply with clause 33(a) of the Seniors SEPP.
44. In AR para 6.3.7, the Department concludes that the amount of deep soil provided on site (15.7%) meets the non-discretionary development standard in the Seniors SEPP and an additional 5% of the Site has deep soil with a dimension less than the 3m required by the standard.
- Commission's findings*
45. The Commission is satisfied that the proposed provision of deep soil is adequate for the Site as it meets the required 15% under the Seniors SEPP.
46. The Commission notes that the northern setback, although not providing the 6m landscaped setback required under KDCP, provides a green roof which neighbouring residents will look down upon. It also provides an improved landscape setback when compared to the existing carpark of approximately 2m of landscaped area comprised of *Elaeocarpus reticulatus (Blueberry Ash)* which can grow to a mature height of 10-15m, improving privacy and residential amenity of the neighbouring property.
47. The Commission is satisfied that the proposal's northern setback landscaping is adequate as:

- it is not required to meet the landscaped setback requirements of the KDCP as DCPs do not apply to SSD;
  - the access driveway is located in the northern setback where the existing driveway is located; and
  - the provision of large trees and a landscaped green roof will contribute to the management of acoustic impacts by providing partial enclosure of the loading dock and the management of amenity and privacy impacts to the neighbouring properties.
48. The Commission is satisfied that the proposal is consistent with clause 33(a) of the Seniors SEPP as:
- the location's current character is shaped not only by the landscaped setting, but also the Sydney Water Reservoir and the heritage of Woonona Cottage;
  - the proposal provides adequate deep soil area consistent with the Seniors SEPP;
  - the Commission has imposed conditions of consent requiring the amendment of the face brick work to a red/orange tone to integrate with the character of the Sydney Water Reservoir; and
  - the proposal provides substantial landscaping including a publicly accessible green through site link.

## 5.2 Accessibility

### 5.2.1 Archdale Walk

49. The Applicant has proposed the upgrade of Archdale Walk to provide an accessible connection to the Wahroonga town centre as part of the project. The works will be subject to separate approvals including under the *Roads Act 1993* and any other approvals required for works on the Australia Post site.
50. In its submission to the Commission, Council requested a deferred commencement condition be imposed to require the approvals for the works be obtained prior to the consent becoming operative as the upgrade is required to comply with clause 16 of the Seniors SEPP and the conditions of the SCC.

#### *Commission's findings*

51. The Commission is satisfied that condition B30 meets the intent of Council's request as the condition requires approval for the upgrade of Archdale Walk be obtained prior to the first Construction Certificate. The Commission has required the Applicant to obtain all approvals necessary for the upgrade works, which includes any development consent required for the works on the Australia Post site.

### 5.2.2 Raised Pedestrian Crossing

52. In its submission to the Commission, Council requested a condition of consent be imposed requiring a raised pedestrian crossing on Neringah Avenue South to ensure an accessible connection to Archdale Walk. Council notes that this will complete the connection from the Site to the upgraded Archdale Walk and ensure residents with mobility issues have adequate access to Archdale Walk and the Wahroonga town centre.
53. The Applicant has not included a raised pedestrian crossing noting that they are not opposed to the crossing but that, in the Applicant's view, it falls outside the scope of the development and is not warranted for the purpose of compliance with clause 26 of the Seniors SEPP.

54. The Department concluded at AR para 6.4.10 that the Applicant should investigate further measures to improve access and safety across Neringah Avenue South and recommended a Road Safety Audit (RSA) to inform whether any pedestrian safety measures are necessary and if so, that they be implemented by the Applicant.
55. In its meeting with the Commission, Council raised concerns that the RSA would not assess accessibility or mobility issues related to Neringah Avenue South but would instead only assess safety without consideration of the restricted mobility of residents.
- Commission's findings*
56. The Commission finds that, based on the information available to it now, it has not been demonstrated that the raised pedestrian crossing is necessary, but should be further assessed by the required RSA. Notwithstanding this finding, the accessibility and mobility matters associated with crossing Neringah Avenue South to connect to Archdale Walk should be further investigated in conjunction with the matters that the RSA would cover.
57. Therefore, to ensure that mobility and accessibility matters are adequately considered, particularly with regard to whether raised pedestrian crossing is required, the Commission has imposed condition B23 requiring an Accessibility Assessment to determine whether any measures are necessary to ensure the accessibility and mobility of pedestrian movements across Neringah Avenue South.
58. Additionally, the Commission has included in condition B23 a requirement that the Accessibility Assessment also considers whether any additional treatments to the surface of any part of Archdale Walk are required and whether any pedestrian accessibility measures are necessary on Woonona Avenue to access Balcombe Park to ensure a complete accessible through site link from Balcombe Park to the Wahroonga town centre.

## 5.3 Internal amenity

### 5.3.1 Cross ventilation

59. The Apartment Design Guide recommends that at least 60% of apartments are naturally cross ventilated. The Department notes in AR para 6.5.15 that the Applicant contends that 34 of the 57 units achieve natural cross ventilation, comprising of:
- 30 dual aspect corner units; and
  - 4 units on the eastern side of the North Building on levels 1 and 3 which rely on a 2.9m wide 'notch' or 'building indentation' to achieve natural cross ventilation.
60. In its submissions to the Department, Council raised concerns with the reliance on notches to achieve natural cross ventilation and noted that the 4 units should not be counted toward compliance with the ADG requirement for cross ventilation in at least 60% of units. If the 4 apartments are excluded, only 52% of units would achieve natural cross ventilation.
61. The Applicant provided advice from a sustainable building engineer which concluded that the notches, when combined with suitably sized openings, provide successful cross ventilation by creating differential pressure on adjacent apartment facades.
62. The Department concluded that the 4 apartments will achieve good levels of natural ventilation through the additional window openings provided within the notches.

### *Commission's findings*

63. The Commission is not satisfied that reliance on notches to achieve good levels of natural ventilation is an appropriate outcome. Therefore, the Commission has imposed condition B1(e) requiring the Applicant to make amendments to the design of the units to achieve compliance with a minimum of 60% cross ventilated apartments in accordance with the ADG.

### **5.3.2 Privacy**

64. In its meeting with the Commission, Council raised concerns regarding privacy for units in the southern building in close proximity to the communal pathway. Council noted that the proposed privacy screens to mitigate the privacy impacts could restrict daylight access and ventilation.
65. The Department notes in AR para 6.5.33 that the provision of privacy screens and the Applicant's increase in landscaping is generally acceptable and would ensure privacy is maintained for the residents of the subject units. However, the Department also shares Council's concerns with the potential restriction of daylight and ventilation and therefore has recommended condition B1(b) to amend the privacy screens for two units on Level 1's western elevation to 3 or 4 stackable panels to ensure greater control of access to sunlight and ventilation whilst maintaining privacy.
66. Additionally, the Department recommended condition B1(c) to delete the privacy screens for the balconies of the south-west units on Levels 3, 4 and 5 of the South Building as they are elevated above ground level and will not be impacted by the ground level communal pathway.

### *Commission's findings*

67. The Commission is satisfied that the privacy of units of the southern building in close proximity to the communal pathway will be adequately mitigated by increased landscaping and the use of privacy screens in units where they are appropriate.
68. The Commission agrees with the Department's recommendation to remove the privacy screens for south-west units on Levels 3, 4 and 5 as they are not required for privacy purposes and this will increase the amenity of the units. Additionally, the Commission agrees with the Department's recommendation to amend the privacy screens for the two units on the western elevation of Level 1 to stackable panels to improve access to daylight and ventilation whilst maintaining the privacy measure.

## **5.4 Traffic and parking**

### **5.4.1 Traffic**

69. The Site is in close proximity to Abbotsleigh Junior School, to the north west on Woonona Avenue.
70. In its submission to the Commission dated 10 January 2024, Council requested that the Commission impose a restriction on construction traffic on Neringah Avenue South so that no construction traffic movements occur between 8:00am and 9:30am and between 2:30pm and 4:00pm on school days, due to concerns with traffic and safety.



71. The Department notes in AR para 6.6.7 that the expected traffic is unlikely to cause any material change to the existing traffic during school pick up and drop off hours. The Department also notes that the restriction is unreasonable as the 3 hour restriction would increase the length of the construction period, add cost to the development and would potentially cause issues at times where work is necessary to continue during these hours such as concrete pours.
72. The Department has recommended condition C25 which requires the Applicant to prepare a Construction Pedestrian and Traffic Management Sub-Plan (CPTMP) which addresses potential impacts and mitigation measures when school zones are in operation, prepared in consultation with Abbotsleigh Junior School. Recommended condition C25 also requires the CPTMP to include a consultation strategy for liaison with surrounding stakeholders including Abbotsleigh Junior School.
73. With regard to operational impacts, in its meeting with the Commission, the Applicant noted that the proposed primary street for vehicle movements associated with the development is Neringah Avenue South and the access road for Abbotsleigh Junior School is Woonona Avenue. The Applicant also noted that the existing loading dock entrance is on Woonona Avenue, that the loading dock vehicle movements currently require reversing into the loading dock and that the consolidation of the loading dock into the service driveway at the northern end of the Site would allow vehicles to enter and exit in a forward direction.
74. In its response to the Commission, the Department notes that the proposed loading dock accessed via the northern driveway on Neringah Avenue South will be utilised by all waste collection, deliveries and emergency services which removes the need for larger vehicles to enter the Site from Woonona Avenue, reducing potential school traffic conflicts.
75. In its response to the Commission, the Department also recommended condition E35 include a specific requirement for the Car Parking, Loading and Service Management Plan to include measures to mitigate any potential conflicts between vehicles accessing the loading dock and school traffic during peak school periods.

#### *Commission's findings*

76. The Commission is satisfied that through the preparation of a CPTMP in consultation with Abbotsleigh Junior School, the potential impacts on traffic and safety will be adequately mitigated and managed. To further mitigate any residual safety impacts, the Commission has imposed condition B22(b) requiring the Road Safety Audit to also include consideration of the interaction of the development with the school zones in the vicinity of the Site during both construction and operation.
77. The Commission has also imposed condition E35 to require the Car Parking, Loading and Service Management Plan to include measures to mitigate any potential conflicts between vehicles accessing the loading dock and school traffic during peak school periods as this will ensure adequate consideration of safety during peak school periods during the operational phase of the development.

#### **5.4.2 Car parking**

78. In its submission to the Commission, Council raised concerns with the excess car parking proposed on the Site, which exceed the minimum requirements of the KDCP and the Seniors SEPP. Council notes that the excess spaces undermine the proposed Green Travel Plan and goal of reducing private car usage.

79. The Commission notes that the car parking rates outlined in the Seniors SEPP and KDCP are minimums and no maximum car parking rate applies to the Site. Therefore, the proposal is compliant with the minimum car parking provisions, providing 130 spaces which is above the minimum of 48 in the Seniors SEPP and 102 in the KDCP.

80. In AR para 6.6.14 the Department concludes that the additional car parking is acceptable as there is limited on street parking, staff parking is provided on site to limit overflow of staff parking onto the street, and there is likely a high level of car ownership.

*Commission's findings*

81. The Commission is satisfied that the provision of 130 car parking spaces is appropriate as:

- the additional parking will allow for shift changes for staff without impacting the limited on-street parking in the area;
- the proposed parking is compliant with the minimum requirements in the Seniors SEPP and KDCP;
- the additional parking will allow for additional activities on site such as the parking of Hammond at Home staff and visitors to the Centre for Positive Ageing.

## 5.5 Other Issues

### 5.5.1 Contributions

82. In its submission to the Department, Council recommended Section 7.11 contributions be imposed under the Ku-ring-gai Local Contributions Plan 2010. In Table 8 of the Department's AR, the Department notes:

*'a Ministerial Direction of the then Minister for Planning dated 14 September 2007 under Section 94E of the EP&A Act that provides that conditions for contributions for public amenities or services cannot be imposed on any development consent to carry out any form of seniors housing under the Seniors SEPP if the application is made by a social housing provider'*

83. Additionally, the Department notes that HammondCare is a social housing provider as defined in the Seniors SEPP, and therefore the Ministerial Direction is applicable to HammondCare, and therefore section 7.11 contributions are not applicable to the Project.

*Commission's findings*

84. The Commission is satisfied that section 7.11 contributions are not applicable to the Project as the Applicant is a social housing provider and therefore falls under the Ministerial Direction dated 14 September 2007. Therefore, the Commission has not imposed a condition of consent requiring section 7.11 contributions.

### 5.5.2 Fit out and operation of the café

85. In its meeting with the Commission, the Applicant requested the Commission approve the fit out and operation of the proposed café.

86. The Department recommended condition A6(a) limiting the consent to not approve the detailed fit out and operation of the café. In Table 8 of the Department's AR, the Department notes that the application did not provide information of the detailed fit out or sufficient information regarding operational or environmental health requirements of the café for approval.

### *Commission's findings*

87. The Commission notes that operational and environmental health requirements for food premises are required to grant development consent including details on how the proposed food premises meets the requirements of the applicable Australian Standards, Food Codes and Regulations.
88. In the absence of this information, the Commission is satisfied that the detailed fit out and operation of the café is required to be approved through a separate approval and therefore the Commission has imposed condition A6(a).

### **5.5.3 Affordable housing**

89. The Application included plans demonstrating the location of 6 affordable units, 4 of which will be on the ground floor and 2 on Level 2 that will be owned and managed by a Community Housing Provider, to meet the requirement of the Seniors SEPP. In its response to the Commission, the Department provided these plans and recommended inclusion of these plans in condition A2.
90. In its meeting with the Commission, the Applicant requested the specific units to be designated as affordable not be nominated, to provide flexibility in providing these units.

### *Commission's findings*

91. The Commission finds that the nomination of the units designated to be affordable, in accordance with the plans provided to the Department by the Applicant is reasonable to ensure that these units are located throughout the Site and with appropriate spatial and environmental amenity. Therefore, the Commission has included plans F1 20-05 Rev P1 Affordable Places Allocation Plan L1 and F1 20-06 Rev P1 Affordable Places Allocation Plan L2 in condition A2 as approved plans.

### **5.5.4 Encroachment of fence**

92. The Commission notes that landscape plan LAQ-DG-86-# Revision P4 shows the footing of the proposed fence on the northern boundary of the Site with 14 Neringah Avenue South encroaching outside of the Site boundary.
93. The Commission requested additional information from the Department on whether landowner's consent for these works had been obtained or if any amendments to the proposed fence would be required via a condition of consent.
94. In its response to the Commission, the Department acknowledged the plan showing an encroachment outside the Site boundary and that landowner's consent had not been obtained for this work. The Department therefore provided a recommended condition of consent requiring a plan amendment to ensure no works occur on the neighbouring property.

### *Commission's findings*

95. The Commission has imposed condition B1(g) requiring the landscape plan LAQ-DG-86-# Revision P4 to be amended to clearly remove any works on the adjoining property of 14 Neringah Avenue South.

## 6. The Commission's Findings and Determination

96. The views of the community were expressed through public submissions and comments received as part of exhibition and as part of the Commission's determination process . The Commission carefully considered all of these views in making its decision.
97. The Commission has carefully considered the Material before it as set out in section 3.1 of this report. Based on its consideration of the Material, the Commission finds that the Project should be approved subject to conditions of consent for the following reasons:
- the Project is consistent with the existing strategic planning framework as it will provide services and infrastructure to meet the needs of an ageing population and create opportunities for older community members to continue living in their community with established health and support networks;
  - the Project is permissible in the R2 Low Density Residential and R4 High Density Residential zones of KLEP 2015 under clause 15(a) of the Seniors SEPP and sections 2.59 and 2.60 of the Transport and Infrastructure SEPP;
  - the potential impacts on nearby residents and the nearby Abbotsleigh Junior School during construction and operation are capable of being managed and mitigated through conditions of consent;
  - the Project is an orderly and economic use of the Site; and
  - the Project is in accordance with the Objects of the EP&A Act.
98. For the reasons set out in paragraph 97 above, the Commission has determined that the Application should be approved subject to conditions. These conditions are designed to:
- prevent, minimise and/or offset adverse environmental impacts;
  - set standards and performance measures for acceptable environmental performance;
  - require regular monitoring and reporting; and
  - provide for the on-going environmental management of the development.
99. The reasons for the Decision are given in the Statement of Reasons for Decision dated 12 February 2024.



Adrian Pilton (Chair)  
Member of the Commission



Wendy Lewin  
Member of the Commission



Michael Wright  
Member of the Commission



**New South Wales Government**  
Independent Planning Commission

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