

BUSINESS PAPER

PLANNING MEETING

**Wednesday, 15 October, 2008
at 6:30 pm**

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SUPPLEMENTARY AGENDA

QUESTION OF WHICH NOTICE HAS BEEN GIVEN

QUESTIONS WITHOUT NOTICE

AGENDA AND SUMMARY OF RECOMMENDATIONS

PRESENT

NATIONAL ANTHEM

OPENING PRAYER/S

ACKNOWLEDGEMENT OF RELIGIOUS DIVERSITY

Statement by the Chairperson

"We Recognise our Shire's rich cultural and religious diversity and we acknowledge and pay respect to the beliefs of all members of our community, regardless of creed or faith."

ABORIGINAL RECOGNITION

Statement by the Chairperson:

"We recognise the traditional inhabitants of the land we are meeting on tonight, the Darug and Guringai Aboriginal people, and respect is paid to their elders and their heritage."

AUDIO RECORDING OF COUNCIL MEETING

Statement by the Chairperson:

"I advise all present that tonight's meeting is being audio recorded for the purpose of assisting in the accuracy of the Minutes. The recordings may be accessed by members of the public once the Minutes have been finalised and speakers are requested to ensure their comments are relevant to the issue at hand and refrain from making personal comments or criticisms."

APOLOGIES

DECLARATIONS OF INTEREST

Clause 52 of Council's Code of Meeting Practice (Section 451 of the Local Government Act, 1993) requires that a councillor or a member of Council committee who has a pecuniary interest in a matter which is before the Council or committee and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").

The Councillor or member of a Council committee must not be present at, or in sight of, the meeting of the Council or committee:

- (a) at any time during which the matter is being considered or discussed by the Council or committee.*
- (b) at any time during which the Council or committee is voting on any question in relation to the matter.*

Clause 51A of Council's Code of Meeting Practice provides that a Councillor, Council officer, or a member of a Council committee who has a conflict of interest or non pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").

The Councillor or member of a Council committee who has a conflict of interest may still participate in the discussion and vote on the matter. In this regard particular note should be taken of Section 6.12 of Council's Code of Conduct.

CONFIRMATION OF MINUTES

THAT the Minutes of the Planning Meeting held on 3 September, 2008 be confirmed, a copy having been distributed to all Councillors.

PETITIONS

MAYORAL MINUTES

NOTICES OF MOTION

RESCISSION MOTIONS

Page Number 1

Item 1 RM7/08 RESCISSION MOTION - MR STEVEN DE PASQUALE - LOT 8 DP 16525 (NO. 56) MURRAY FARM ROAD, BEECROFT - DELETION OF CONDITION NO. 16 REQUIRING KERB & GUTTER CONSTRUCTION

COUNCILLOR BROWNE TO MOVE

THAT the resolution adopted at the Planning Meeting held on 20 August, 2008 in respect of Item 7, Mr Steven De Pasquale – Lot 8 DP 16525 (No. 56) Murray Farm Road, Beecroft – Deletion of Condition No. 16 Requiring Kerb & Gutter Construction namely:-

"THAT the Section 96 Application for deletion of Condition No. 16 requiring kerb and gutter construction be approved."

be, and is hereby rescinded.

NOTE: THE ABOVE RESCISSION MOTION IS SUPPORTED BY COUNCILLORS EVANS AND HORNE

NOTE: In the event of the proposed Rescission Motion being adopted, the following motion is proposed.

"THAT pursuant to Section 96 of the Environmental Planning and Assessment Act, 1979, Development Consent No. 1941/2007 for subdivision of one allotment into two, be modified as follows:

1. Deletion of condition No. 59 and replacement with new conditions as follows:-

- 59A. To ensure any work undertaken will not adversely affect the longevity of the Jacaranda street trees at the Saracen Road frontage, a qualified and experienced Arborist shall be engaged to direct all works within four metres (4m) of the trunk of any tree to be retained.
- 59B. Tree roots between 10mm and 40mm diameter, revealed during excavation, must be cut cleanly by a sharp hand saw. If tree roots greater than 40mm diameter are revealed during excavation, alternative construction techniques, such as pier and beam, are to be employed so as to limit the damage to the trees roots.
- 59C. A reassessment of the trees, by an independent Arborist, is to occur five (5) months from the completion of the kerb and gutter works. Any tree found to have deteriorated to the condition where it is required to be removed is to be replaced, with a Jacaranda mimosifolia (Jacaranda) to be planted in the same location. Remaining stump grindings from the previous tree removal are to be removed and a suitable (safe) growing medium for the replacement tree emplaced. The pot size is to be a minimum 25 litres and the tree must be maintained and protected until it reaches a height of 3 metres.”

MAYORAL MINUTES

NOTICES OF MOTION

MATTERS OF URGENCY

ITEMS PASSED BY EXCEPTION / CALL FOR SPEAKERS ON AGENDA ITEMS

Note:

Persons wishing to address Council on matters which are on the Agenda are permitted to speak, prior to the item being discussed, and their names will be recorded in the Minutes in respect of that particular item.

DEVELOPMENT APPLICATIONS

GENERAL BUSINESS

- *Items for which there is a Public Forum Speaker*
- *Public Forum for non agenda items*
- *Balance of General Business items*

A WARD DEFERRED

A WARD**Page Number 3****Item 2 PLN203/08 DEVELOPMENT APPLICATION - TWO LOT
RESIDENTIAL SUBDIVISION
59A TELOPEA STREET, MOUNT COLAH**

THAT Council adheres to its decision to refuse Development Application No. 1946/2007 for the Torrens title subdivision of one allotment into two allotments, for the reasons detailed in Schedule 1.

Page Number 15**Item 3 PLN204/08 DEVELOPMENT APPLICATION - AGED OR
DIFFERENTLY ABLED PERSONS HOUSING
2A MANOR ROAD, HORNSBY**

THAT development application DA/928/2007 at Lot 12 DP 1079875 (No. 2A) Manor Road, Hornsby be approved subject to the conditions of consent held at Schedule 1.

Page Number 66**Item 4 PLN205/08 DEVELOPMENT APPLICATION - SECTION 96(2)
- TO REPLACE SELF CARE UNITS WITH HOSTEL UNITS
301 - 305 GALSTON ROAD, GALSON**

THAT Development Application No. 276/1983/N at Lot 1 and Lot 2 DP 713848, (Nos. 301 - 305) Galston Road, Galston be approved subject to conditions of consent detailed in Schedule 1 of this report.

Page Number 85**Item 5 PLN208/08 DEVELOPMENT APPLICATION FOR MOBILE
PHONE TOWER AND EQUIPMENT SHELTER
GALSTON ROAD, HORNSBY HEIGHTS**

THAT Council approves DA/1931/2007 for the "Installation of a mobile phone tower and associated equipment shelter" at Rofe Park, 100X Galston Road, Hornsby Heights in accordance with the recommended conditions of consent prepared by *Natasha Mavlian Planning Consultant* held at Attachment 2 of this report.

B WARD DEFERRED**B WARD****Page Number 90****Item 6 PLN196/08 DEVELOPMENT APPLICATION -
ALTERATIONS TO BUILDING AND SUBDIVISION INTO 25
UNITS
293 -299 PENNANT HILLS ROAD THORNLEIGH**

THAT Development Application No. 930/2008 at Lot 27, DP 263535, Lot 1 DP 1122268 Nos. 293-299 Pennant Hills Road Thornleigh be approved subject to conditions of consent detailed in Schedule 1.

C WARD DEFERRED

C WARD

Page Number 101

**Item 7 PLN202/08 DEVELOPMENT APPLICATION - DEMOLITION
 OF EXISTING DWELLING AND ERECTION OF A CHILD
 CARE CENTRE
 96 RAY ROAD, EPPING**

THAT Development Application No. 582/2008 at Lot 3 DP 8346 (No. 96) Ray Road Epping be approved subject to conditions of consent detailed in Schedule 1 of this report.

GENERAL BUSINESS

Page Number 123

**Item 8 PLN198/08 KEEP AUSTRALIA BEAUTIFUL (NSW) 2008
 SUSTAINABLE CITIES AWARD - HERITAGE
 MANAGEMENT BY A METROPOLITAN COUNCIL**

THAT the contents of Executive Manager's Report No. PLN198/08 be received and noted.

Page Number 126

**Item 9 PLN199/08 KU-RING-GAI AND HORNSBY SUBREGIONAL
 EMPLOYMENT STUDY**

THAT:

1. Council progress exhibition of the Ku-ring-gai and Hornsby Subregional Employment Study including the addendum attached to Executive Manager's Report PLN130/08.
2. The Study be exhibited for a minimum period of two months in accordance with the consultation strategy identified in Executive Manager's Report No. PLN130/08.
3. A briefing for Councillors be conducted during the exhibition period.
4. At the conclusion of the exhibition period, the Ku-ring-gai and Hornsby Subregional Employment Study Working Party review submissions and prepare a report to Council on the exhibition of the Study.

SUPPLEMENTARY AGENDA

CONFIDENTIAL ITEMS

QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN

QUESTION OF WHICH NOTICE HAS BEEN GIVEN N

QUESTIONS WITHOUT NOTICE

1 RESCISSION MOTION - MR STEVEN DE PASQUALE - LOT 8 DP 16525 (NO. 56) MURRAY FARM ROAD, BEECROFT - DELETION OF CONDITION NO. 16 REQUIRING KERB & GUTTER CONSTRUCTION

COUNCILLOR BROWNE TO MOVE

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"THAT the Section 96 Application for deletion of Condition No. 16 requiring kerb and gutter construction be approved."

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NOTE: In the event of the proposed Rescission Motion being adopted, the following motion is proposed.

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1. Deletion of condition No. 59 and replacement with new conditions as follows:-

59A. To ensure any work undertaken will not adversely affect the longevity of the Jacaranda street trees at the Saracen Road frontage, a qualified and experienced Arborist shall be engaged to direct all works within four metres (4m) of the trunk of any tree to be retained.

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59C. A reassessment of the trees, by an independent Arborist, is to occur five (5) months from the completion of the kerb and gutter works. Any tree found to have deteriorated to the condition where it is required to be removed is to be replaced, with a Jacaranda mimosifolia (Jacaranda) to be planted in the same location. Remaining stump grindings from the previous tree removal are to be removed and a suitable (safe) growing medium for the replacement tree emplaced. The pot size is to be a minimum 25 litres and the tree must be maintained and protected until it reaches a height of 3 metres."

File Reference: DA/1941/2007/A
Document Number: D01000530

ITEM 1

**2 DEVELOPMENT APPLICATION - TWO LOT RESIDENTIAL SUBDIVISION
59A TELOPEA STREET, MOUNT COLAH**

Development Application No:	DA No. 1946/2007 – Section 82A Review
Description of Proposal:	Torrens title subdivision of one allotment, comprising an existing multi-unit housing development, into two allotments.
Property Description:	Lot 661 DP 1041285 (No. 59A) Telopea Street, Mount Colah
Applicant:	Barrie Green & Associates and Mrs Mildred Joan Rego
Owner:	Mr Clifford Rego and Mrs Mildred J Rego
Statutory Provisions:	Hornsby LEP 1994 (Residential A-Low Density) SEPP 1 – Development Standards
Estimated Value:	No construction costs
Ward:	A

RECOMMENDATION

That Council adheres to its decision to refuse Development Application No. 1946/2007 for the Torrens title subdivision of one allotment into two allotments, for the reasons detailed in Schedule 1.

EXECUTIVE SUMMARY

- On 21 May 2008 Council refused DA/1946/2007 for the Torrens title subdivision of one allotment, comprising an existing multi-unit housing development, into two allotments.
- Pursuant to Section 82A of the Environmental Planning and Assessment Act, 1979 (the Act), a request has been made of the Council to review its determination.
- The proposal does not comply with Hornsby Shire Local Environmental Plan 1994 (HSLEP) and Council’s Residential Subdivision Development Control Plan (RSDCP). The application is supported by an objection under State Environmental Planning Policy No. 1 – Development Standards (SEPP 1)
- No submissions have been received in respect of the application.

- It is recommended that the application be refused.

HISTORY OF THE APPLICATION

At its Planning Committee Meeting on 21 May 2008, Council resolved to refuse the application for the following reasons:

1. *Pursuant to the provisions of Section 79C(1)(a)(i) and (c) of the Environmental Planning and Assessment Act, 1979 and Hornsby Shire Local Environmental Plan 1994, the proposal does not comply with the objectives (a) and (b) of the Residential A (Low Density) zone.*
2. *Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposed development does not comply with Clause 14 'Density' and Clause 15 'Floor Space Ratio' within the Hornsby Shire Local Environmental Plan, 1994.*
3. *The proposal does not comply with the element Density of the Residential Subdivision Development Control.*
4. *The proposal does not demonstrate that sufficient landscaped area can be provided for Lot 611 to satisfy the provisions of the Residential Subdivision Development Control Plan.*
5. *The subdivision plan does not provide adequate details regarding access to the private open space area for proposed lot 612.*
6. *The proposal would set an undesirable precedent.*

This report details the assessment of an application for Council to review its determination pursuant to s.82A of the Act.

HISTORY OF THE SITE

On 1 August 2001, at its Planning Committee meeting, Council resolved to approve a development application for the erection of a multi unit housing development comprising two attached dwellings (DA/710/2001).

THE SITE

The site is an approximately rectangular shaped allotment with an area of 796.8 sqm located on the north-western side of Telopea Street. The site comprises three levels divided by a number of rock ledges and experiences an average fall of 22% towards the street.

The site accommodates a two-storey multi unit housing development comprising two attached dwellings each with frontage to Telopea Street. The floor area of Unit A is 142.1 sqm and Unit B is 181.2 sqm. The units include single garages in front of the building alignment with car spaces on each side of the garages. Both units are constructed on split levels to follow the contours of the land incorporating the primary living areas located on the lower level and bedrooms on the upper level. The private open space areas are located within the rear setback and comprise pergolas with tiled areas adjoining the grassed areas in two levels separated by retaining walls. The grassed area at the rear is accessed via a set of stairs from Unit B. There are no significant trees on site.

Currently, a fence is located alongside the outdoor tiled area of Unit A which separates the rear courtyard grassed area of the site from Unit A. Consequently, Unit A does not have direct access to the majority of the private open space area. This is inconsistent with the development consent for the multi-unit housing development.

The Main Northern railway runs parallel to the site's western boundary with the rail set back approximately 20m from the rear fence of the property. The locality is generally characterised by low-density residential developments. A multi-unit housing development comprising fourteen dwelling houses is located to the north-east and extends to Myall Road. Mount Colah Public School is located approximately 300m to the south-west.

THE PROPOSAL

The development application, as originally submitted to Council, involved the Torrens title subdivision of one allotment into two allotments, with an existing dwelling to be located on each allotment. The allotments would have reciprocal rights of way over a small triangular portion of the driveway for manoeuvring of vehicles to and from the site.

- Site area for lot 611: 433.6 sqm
- Site area for lot 612: 363.2 sqm

- FSR of existing dwelling on lot 611: 0.42:1
- FSR of existing dwelling on lot 612: 0.39:1

Proposed lot 611 would comprise the northern portion of the site with frontage to Telopea Street. An attached two storey dwelling would be located entirely within proposed Lot 611. Vehicular and pedestrian access to the proposed lot would remain as existing.

Proposed lot 612 would comprise the southern portion of the site with frontage to Telopea Street. An attached two storey dwelling would be located entirely within the proposed allotment. Vehicular and pedestrian access to the property would remain as existing.

The applicant has submitted additional information in support of the Section 82A application to address Council's previous reasons for refusal. In summary, the applicant submits that:

- This subdivision would create two contemporary and affordable accommodations in the eastern side of Mount Colah that comply with Council's regulations. The proposal would attract younger population to the area.
- Since the buildings exist, the proposal would not impact on the landscape or streetscape in any form and would have no adverse environmental impacts.
- The subdivision does not have any objections from the neighbours.
- The subdivision, if approved, would HSLEP the owners of the property monetarily.
- The issues regarding loss of access to the rear grassed can be resolved by demolishing the fence at the rear.
- The subdivision would not set an undesirable precedent, as there are several existing dwellings of less than 500 sqm in East Mount Colah.

ASSESSMENT

The development application has been assessed having regard to the '2005 City of Cities Metropolitan Strategy', the 'North Subregion (Draft) Subregional Strategy' and the matters for consideration prescribed under Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act). Subsequently, the following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Metropolitan Strategy – (Draft) North Subregional Strategy

The Metropolitan Strategy is a broad framework to secure Sydney's place in the global economy by promoting and managing growth. It outlines a vision for Sydney to 2031; the challenges faced, and the directions to follow to address these challenges and achieve the vision. The draft North Subregional Strategy acts as a framework for Council in the preparation of a new Principal LEP by 2011.

The draft Subregional Strategy sets the following targets for the Hornsby LGA by 2031:

- Employment capacity to increase by 9,000 jobs; and
- Housing stock to increase by 11,000 dwellings.

The proposal would have no impact on the Draft Strategy targets as it does not result in the net increase of the housing stock in the Hornsby LGA. However, the proposal would result in the loss of housing choice and affordable housing within the Shire (as discussed in detail in the body of this report) and is therefore inconsistent with the Draft Strategy.

2. STATUTORY CONTROLS

Section 79C(1)(a) requires Council to consider any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and other prescribed matters.

2.1 Hornsby Shire Local Environmental Plan 1994

The subject land is zoned Residential A (Low Density) under HSLEP. The objectives of the zone are:

- to provide for the housing needs of the population of the Hornsby area.*
- to promote a variety of housing types and other land uses compatible with a low density residential environment.*
- to provide for development that is within the environmental capacity of a low density residential environment.*

The use is defined as 'subdivision' and is permissible within the zone pursuant to Clause 7 of the HSLEP.

Clause 14 of HSLEP prescribes that the minimum size of allotments within the zone is 500 sqm. The applicant seeks to create two undersized allotments and consequently the proposal does not comply with the development standard contained within Clause 14.

Given that the application does not comply with HSLEP and the RSDCP (discussed below) with respect to the minimum allotment size, it is considered that the proposal does not provide a development that is both compatible with the low density residential environment or contributes towards a variety of housing needs compatible with a low density residential environment. In this regard the proposal does not satisfy the zone objectives and consequently, the objectives of the development standard. To address this matter, the applicant has submitted a SEPP 1 objection to the development standard under HSLEP.

Clause 15 of HSLEP prescribes that the maximum floor space ratio (FSR) of development within the zone is 0.4:1. The proposed FSR for dwellings on the allotments are as follows:

- Dwelling on Lot 611 0.42:1
- Dwelling on Lot 612 0.39:1.

As indicated above, the dwelling on proposed Lot 611 would not comply with the development standard under Clause 15. The application is supported by an objection pursuant to SEPP 1, to support the proposed variation.

2.2 State Environmental Planning Policy No. 1 – Development Standards

The application has been assessed against the requirements of SEPP 1. This policy provides flexibility in the application of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objectives of the Act.

The Land and Environment Court has expressed the view that there are five different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:

1. *the objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

It is considered that the first four of the above points are relevant matters to consider in respect of this application.

The applicant has submitted an objection pursuant to SEPP 1 in support of the proposal. The applicant's submission has been summarised (in italics) below:

- *The multi-unit housing development was approved prior to the existence of Clause 14(3) and 14(4) within HSLEP in relation to multi-unit housing being permissible at a density of 1 dwelling per 350 sqm and subdivision of such a development being only permissible if it complies with minimum allotment size of 500 sqm. Therefore these clauses are not applicable to the current application.*
- *The development standards have been virtually abandoned or destroyed by Council's own actions in granting development consents departing from the standards and hence compliance with the standard is unnecessary and unreasonable.*

The applicant's submission is not correct as the existing multi-unit housing development referred to by the applicant was approved under the current planning instrument, which permitted the erection of multi-unit housing development at a maximum density of 1 dwelling per 350 sqm of land, however, precluded subdivision to avoid the creation of undersized allotments. Therefore the development standards have not been abandoned by Council's own actions. The previous proposal was approved as it complies with the development standards within Clause 14(3), 14(4) of HSLEP and the elements of the RSDCP.

- *It has been demonstrated by the approval and construction of the existing multi-unit housing that the subject site is capable of supporting two dwellings and will not impact on the amenity of the adjoining properties or the character of the area.*
- *The proposal is consistent with the aims of SEPP No. 1 in that the existing development which comprises two attached dwellings was approved by Council and that the proposal does not require modification to the built form and therefore does not impact on the density, bulk and scale of the locality.*
- *The proposed subdivision is considered to be compatible with the existing surrounding subdivision pattern, particularly the allotments on the northwest side of Telopea Street.*
- *The compliance with the development standards would prevent the creation of separate titles and therefore the individual sale of the two dwellings. This would limit the orderly and economic use of the land.*
- *Therefore the objectives of the applicable development standards are achieved notwithstanding the proposed non-compliances.*

It is acknowledged that the proposed subdivision would not have any impact on the natural or the built environment as it has been demonstrated that the site is capable of supporting two dwellings with associated facilities.

However, the intent of Clause 14(3) of HSLEP is to preclude subdivision of undersized allotments, and therefore, facilitating a variety of housing types within the Shire that contributes towards the provision of affordable housing, affordable rental accommodation and accommodation for young families in accordance with objective (a) and (b) of the Residential A zone. Clause 14(4) precludes the subdivision of such undersized allotments as it would contradict the intent of Clause 14(3) and its compliance with the zone objectives by creating more costly conventional Torrens titled allotments.

Consequently, the proposal seeks approval for subdivision of an allotment which under Clause 14(2) of HSLEP does not comply with both the intent and the objective of Clause 14(3) or 14(4), pursuant to which, the application for the multi-unit housing development was originally approved. It is considered that the current subdivision proposal may result in a negative social impact by reducing housing choice in the Shire and would set an undesirable precedent for the area.

Council's records indicate that Council has not approved any applications on Telopea Street, under the current planning instruments. Therefore, approval of this application would establish a precedent and may erode the intent of the development standard.

2.3 Residential Subdivision Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive design standards within Council's RSDCP. The following table sets out the proposal's compliance with the prescriptive standards of the Plan:

Residential Subdivision Development Control Plan			
Control	Proposal	Requirement	Compliance
Density			
Lot 611	433.6m ²	500 m ²	No
Lot 612	363.2m ²	500 m ²	No
Car parking			
Lot 611	2 spaces	2 spaces	Yes
Lot 612	2 spaces	2 spaces	Yes
Private Open Space			
Lot 611	120m ²	120 m ²	Yes
Lot 612	110m ²	100 m ²	Yes
Landscaping			
Lot 611	34%	45%	No
Lot 612	49%	45%	Yes
Site cover			
Lot 611	45%	40%	No
Lot 612	34%	40%	Yes

Setbacks			
Lot 612			
Front (Telopea Street)	No change		
North-eastern side	No change		
South-west side	No change		
Rear	Nil to wall	1m	No

As detailed in the above table, the proposed development does not comply with a number of prescriptive standards within Council's Housing RSDCP. The matters of non-compliance are detailed below, as well as a brief discussion on compliance with relevant performance standards.

2.3.1 Setbacks

As the dwellings currently exist on the site, there would be no change to the existing boundary setbacks. The proposed boundary that divides Lot 611 from Lot 612, separates the properties through an existing common wall, resulting in a nil setback in this section of the site. The remainder of the boundary is setback a minimum of one metre from the existing building structures.

2.3.2 Site Cover

The proposed subdivision seeks to provide separate land titles for each dwelling. The bulk, scale and density of the existing development would not be altered by the proposal. However, the creation of the undersized allotments would result in non-compliance with the site coverage for proposed lot 611 and is considered inappropriate.

2.3.3 Landscaping

The Residential Subdivision DCP requires that 45% of the site be landscaped. Proposed lot 611 does not comply with the prescriptive measure within the DCP due to the creation of the undersized allotment and is considered unacceptable in this regard.

2.3.4 Private Open Space

The proposed allotments include sufficient private open space areas to the rear of the site for each dwelling. The private open space areas for both the dwelling houses include outdoor tiled areas with pergolas and adjoining grassed areas which are located in two different levels in accordance with the topography of the site. The grassed area adjoining the rear fence is accessed via a set of stairs from proposed allotment 611.

However, the dwelling house on proposed lot 612 does not have direct access to the grassed area due to the location of 1.6 m high retaining wall and a fence separating the paved area from the grassed area. In the event that the application was approved, an appropriate condition of consent should require the removal of that fence.

2.3.5 Car Parking

The proposal would have no impact on transport, traffic, access and parking within the site. Each dwelling comprises two car spaces and is acceptable. The proposed allotments would have reciprocal rights of way over a portion of the common driveway providing access to the properties.

3. ENVIRONMENTAL IMPACTS

Section 79C(1)(b) of the Act requires Council to consider “*the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*”.

3.1 Social Impacts

The proposal would result in the creation of two undersized allotments and restrict the opportunities of affordable housing, low rental accommodation and accommodation for young families and is inconsistent with the objectives of the zone. Therefore the proposal would not have a positive social impact on the locality.

3.2 Economic Impacts

The two contemporary accommodations currently exist and provide affordable housing opportunities. However, approval of the application for Torrens title subdivision of the allotment would increase the land values and reduce the opportunity for a variety of housing types and affordable housing in the neighbourhood.

Therefore the application fails to demonstrate that the proposal would result in a positive economic benefit to the community by creating a variety of housing types in a low density environment.

4. SITE SUITABILITY

Section 79C(1)(c) of the Act requires Council to consider “*the suitability of the site for the development*”.

The site is not suitable for the subdivision as it would result in the creation of undersized allotments.

5. PUBLIC PARTICIPATION

Section 79C(1)(d) of the Act requires Council to consider “*any submissions made in accordance with this Act*”.

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 7 August 2008 and 26 August 2008 in accordance with Council’s Notification and Exhibition Development Control Plan. During this period, Council did not receive any submissions.

6. THE PUBLIC INTEREST

Section 79C(1)(e) of the Act requires Council to consider “*the public interest*”.

The public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. Implicit to the public interest is the achievement of future

built outcomes adequately responding to and respecting the future desired outcomes expressed in environmental planning instruments and development control plans.

The application does not satisfactorily meet Council's development standards and therefore would not provide a development outcome that, on balance, would result in a positive impact for the community. Accordingly, it is considered that the approval of the proposed would not be in the public interest.

7. CONCLUSION

The application proposes the subdivision of one allotment into two allotments on which is constructed a multi-unit housing development.

The proposal does not comply with the development standards under Clause 14 (Density) and Clause 15 (FSR) of the HSLEP. The applicant has submitted an objection under the provisions of SEPP 1 to vary the density and FSR requirements. It is considered that the SEPP 1 submission does not demonstrate that the approval of the development is warranted in the circumstances of the case. In addition, the proposal also does not comply with the prescriptive measures with regard to 'site coverage' and 'landscaping' of the RSDCP.

The Section 82A application for DA/1946/2007 fails to justify the non-compliance of the proposal with the relevant provisions within Clause 14 'Density' and Clause 15 'Floor Space Ratio' of the HSLEP. The submitted additional information does not demonstrate that the proposal would result in a positive social or economic impact or would not set an undesirable precedent for the area.

Having regard to the assessment of the proposed development, it is recommended that Council adhere to its original decision and refuse the application.

SCHEDULE 1

1. Pursuant to the provisions of Section 79C(1)(a)(i) and (c) of the Environmental Planning and Assessment Act, 1979 and Hornsby Shire Local Environmental Plan 1994, the proposal does not comply with the objectives (a) and (b) of the Residential A (Low Density) zone insofar as promoting a variety of housing types compatible with a low density residential environment.
2. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposed development does not comply with Clause 14 'Density' and Clause 15 'Floor Space Ratio' within the Hornsby Shire Local Environmental Plan, 1994.
3. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposal does not comply with the element "*Density*" of the Residential Subdivision Development Control.
4. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, it is considered that the development would reduce housing affordability for low cost rental accommodation in the locality and would therefore have a negative social impact.
5. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposal does not demonstrate that sufficient landscaped area can be provided for Lot 611 to satisfy the provisions of the Residential Subdivision Development Control Plan.
6. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the subdivision plan does not provide adequate details regarding access to the private open space area for proposed lot 612.
7. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposal would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.

ROD PICKLES
Manager - Assessment Team 2
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. locality Plan
2. Subdivision Plan
3. Site Plan

File Reference: DA/1946/2007

Document Number: D01011039

ITEM 2

**3 DEVELOPMENT APPLICATION - AGED OR DIFFERENTLY ABLED PERSONS HOUSING
2A MANOR ROAD, HORNSBY**

DA/928/2007

Development Application No:

Description of Proposal: Construction of an aged or differently abled persons housing development comprising 91 units with basement car parking and alterations and additions to Mount Wilga House (heritage item) for use as ancillary communal facilities

Property Description: Lot 12 DP 1079875 Manor Road, Hornsby

Applicant: Austcorp Project No 1 Pty Ltd

Owner: Austcorp Project No 1 Pty Ltd

Statutory Provisions: Hornsby Shire LEP 1994 (Special Uses A (Community Purposes))
SEPP (Housing for Seniors or People with a Disability) 2004
SEPP 65 Design Quality of Residential Flat Development

Estimated Value: \$38,126,617

Ward: A

RECOMMENDATION

THAT development application DA/928/2007 at Lot 12 DP 1079875 (No. 2A) Manor Road, Hornsby be approved subject to the conditions of consent held at Schedule 1.

EXECUTIVE SUMMARY

1. The application proposes the staged construction of housing for aged or differently abled persons comprising five buildings ranging in height from 2 to 4 storeys incorporating 91 self care units and alterations and additions to Mt Wilga House and its use as an ancillary communal facility.
2. The property was previously approved for 79 self care aged housing units in five buildings ranging in height from 2 to 5 storeys, under SEPP No. 5 pursuant to DA/2355/1999. The approved development has physically commenced.
3. The proposal complies with the provisions of the Hornsby Shire Local Environmental Plan that permits 'housing for aged or differently abled persons' on the property. The

proposal also generally complies with SEPP (Housing for Seniors or People with a Disability) 2004 and SEPP 65 Design Quality of Residential Flat Development.

4. It is recommended that the application be approved.

HISTORY OF THE SITE

The site was used as a residential property between 1907-1952, as a Commonwealth Government rehabilitation hospital between 1952-1987, a private rehabilitation hospital between 1987-1990 and as a Buddhist Temple and administration centre between 1990-1999.

On 24 February 2000, Council approved Development Application No. 2355/1999 for a *“Five stage development comprising housing for older people or people with a disability (retirement village consisting of 81 residential units), parking for 127 vehicles, an associated recreation facility, refurbishment and ancillary use of the existing Mt Wilga Heritage building, and the demolition of other existing buildings”*. Thereafter in 2003, the application was amended to delete two approved units.

In 2004 demolition work was undertaken on the property pursuant to DA No. 2355/1999. A letter from Council’s Executive Manager Planning Division to Austcorp dated 2 July 2004 confirmed in relation to DA No. 2355/1999 that *“in view of the demolition works completed on the site it is considered the development consent has been physically commenced.”*

On 11 July 2007 the current development application No. 928/2007 was submitted to the Council. On 12 November 2007 the application was amended. The amendments included reduction of the building bulk on Buildings A, C and E adjacent to Manor Road and the erection of an additional storey on Building D adjacent to Mt Wilga Private Hospital. This resulted in an overall increase in the total number of units from 88 to 91.

THE SITE

Description

The 2.31 hectare site at 2A Manor Road Hornsby is an irregular shaped property, bounded by Manor Road and Rosamond Street to the south and east, and by Mt Wilga private hospital to the north. The property is located approximately 1.6 km to the north-west of the Hornsby Town Centre and train station, within a predominantly low density residential area.

The site has a frontage of 420 metres to Manor Road and Rosamond Street, a variable common northern boundary of 285 metres with Mt Wilga Private Hospital and an 85 metre western boundary with a private residential access road/driveway. Primary access to the site is via a driveway from Rosamond Street, adjacent to Mt Wilga Hospital. There are currently two other vehicular entry points from Manor Road in the south of the site.

The property is sited on the apex of a long ridge with views to the surrounding area. Mt Wilga House is located near the centre of the site in an elevated position. From this central position, the site’s topography falls down towards the eastern, southern and western property boundaries with an average gradient of 12% to 18%.

The property contains Mt Wilga House which is a heritage item of regional significance. This building comprises a two storey masonry and tile building with a hipped and pitched roof and a ground floor balcony. In September 1987 a Permanent Conservation Order under the Heritage Act was established in respect of the property. The heritage listing identifies a

curtilage around Mt Wilga House of approximately 1.2 hectares, which is located over the eastern half of the site.

Part of the adjacent Mt Wilga Hospital buildings encroach over the common northern boundary. The encroachments include a disused waiting room, a covered pedestrian walkway and eaves/awnings to a rehabilitation building.

The grounds around Mt Wilga House are landscaped with grassed lawns, interspersed with mature trees and lower vegetation. A significant stand of trees is located on the southern side of the site adjoining Manor Road. The property's landscaped grounds also include a disused tennis court in the south-eastern corner.

The area to be developed drains to the south towards Manor Road. From Manor Road stormwater drains to the south via an existing drainage easement between Nos. 25 and 27 Manor Road or alternatively via an easement between Nos. 37 and 39 Manor Road. The site is burdened by a number of drainage easements that benefit Mt Wilga Private Hospital. These drainage easements also discharge to the south over Manor Road. These drainage easements are no longer in use. In this regard DA No.1225/2003 for the expansion of Mt Wilga Hospital included an on-site detention system that discharges stormwater to the north.

Approximately 30% of the site is identified as bushfire prone in the south of the site.

Mt Wilga Private Hospital to the north comprises a series of one and two storey masonry buildings. The site's western boundary adjoins a 6 to 9 metre wide residential driveway/s. To the west of the driveway is four detached 1 to 2 storey residential dwellings. The site is surrounded by a low-density residential neighbourhood. The area contains detached residential dwellings generally ranging in height from one to two storeys.

THE PROPOSAL

The proposal seeks consent for the staged construction of housing for aged or differently abled persons comprising five residential flat buildings ranging in height from 2 to 4 storeys including 3 x 1 bedroom units, 76 x 2 bedroom units and 12 x 3 bedroom units (total of 91 units). In addition, alterations and additions are proposed to Mr Wilga House and use of the heritage item for communal facilities ancillary to the aged housing development. A total of 184 parking spaces are provided and accessed via the site's primary driveway from Rosamond Street and a secondary driveway from Manor Road.

The Development Components are summarised in the following:

Development Component	Description
Basement	182 car parking spaces comprising: <ul style="list-style-type: none"> * 71 double residential spaces, * 20 single residential spaces, * 19 visitor/ staff spaces, and * 1 caretaker's space. 1 community bus bay, 1 double car wash bay, and garbage storage rooms.

Building A - storeys - ceiling height - unit mix - floor area	- 3 storeys - 6 to 10.6 metres - 14 x 2-bed units, 2 x 3-bed units (Total 16 units) - 1945sqm
Building B - storeys - ceiling height - unit mix - floor area	- 3 storeys - 9 metres - 12 x 2-bed units, 2 x 3-bed units. (Total 14 units) - 1709sqm
Building C - storeys - ceiling height - unit mix - floor area	- 3 storeys - 7.3 to 10 metres - 14 x 2-bed units, 2 x 3-bed units. (Total 16 units) - 1911sqm
Building D - storeys - ceiling height - unit mix - floor area	- 4 storeys - 11.9 metres - 20 x 2-bed units, 2 x 3-bed units. (Total 22 units) - 2602sqm
Building E - storeys - ceiling height - unit mix - floor area	- 2 to 4 storeys - 4.2 to 11.5 metres - 3 x 1-bed units, 16 x 2-bed units, 4 x 3-bed units. (Total 23 units) - 2899sqm
Mt Wilga House	multi-purpose recreation facility for the residents, meeting rooms, Doctors rooms, a one bedroom caretakers residence and 2 car parking spaces (at grade).
Total gross floor area	11659sqm
Site Coverage	24%
Total Communal landscaping	68%
Deep Soil Zone	58%
Private Open Space per unit	12 to 62sqm (average 25sqm)

The development is proposed to be constructed in five stages as follows:

Stage A:

- Alterations and additions to Mt Wilga House;
- Upgrade vehicular and pedestrian links from Rosamond Street to Mt Wilga House;
- Construct Building A and associated basement parking (7 double and 9 single spaces);
- Two temporary visitor parking spaces are on land to be developed as stage C;
- Vehicular access to the Building A basement via the secondary access to Manor Road;
- Waste collection is to occur from the new waste collection area near Mt Wilga House. The caretaker is to transfer bins from the basement waste rooms. Waste vehicles are to collect from the internal round-a-bout;
- Stage A stormwater management is to include the permanent downstream system through Stage B and E onto and down Manor Road. Stormwater is to drain in a westerly direction along Manor Road, and thereafter flow to the existing drainage channel easement between Nos. 37 and 39 Manor Road; and
- Bulk earthworks for Stages A to E.

Stage B:

- Construct Building B, the basement ramp and part of the basement parking (17 double and 1 single residential spaces, 12 visitor spaces, 1 caretakers space); and
- Landscaping of the rear yard (west) of Mt Wilga House including the loop path.

Stage C:

- Construct Building C;
- Expansion of the basement, incorporating an internal driveway linking the Rosamond Street and Manor Road driveways; and
- Additional basement parking (21 double and 3 single residential spaces, 7 staff/visitor spaces and 1 vehicle car wash-bay).

Stage D:

- Construct Building D; and
- Additional basement parking (14 double and 2 single residential spaces).

Stage E:

- Construct Building E; and
- Completion of the basement parking (15 double and 1 single residential spaces).

A comparison of the approved and proposed development is summarised in the table below:

Development Component	Approved (DA/2355/99/A)	Proposed (DA/928/07)	Net Change
Total Units	79	91 (+ 1 caretaker unit)	+ 12units
Aged Housing Unit Mix	13 * 2 bed 66 * 3 bed	3 * 1 bed 76 * 2 bed 12 * 3 bed	+ 3 * 1 bed + 63 * 2 bed - 54 * 3 bed
Total Bedrooms (including studies)	224	191	15% reduction

On-site parking	115 residential 23 visitor/staff 138 total	162 residential 22 visitor/staff 184 total	33% increase
FSR	0.52:1	0.504:1	Similar
Site Coverage	24%	24%	Similar

ASSESSMENT

The development application has been assessed having regard to the '2005 City of Cities Metropolitan Strategy', the 'North Subregion (Draft) Subregional Strategy' and the matters for consideration prescribed under Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act). Subsequently, the following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Metropolitan Strategy – (Draft) North Subregional Strategy

The Metropolitan Strategy is a broad framework to secure Sydney's place in the global economy by promoting and managing growth. It outlines a vision for Sydney to 2031; the challenges faced, and the directions to follow to address these challenges and achieve the vision. The draft North Subregional Strategy acts as a framework for Council in the preparation of a new Principal LEP by 2011.

The draft Subregional Strategy sets the following targets for the Hornsby LGA by 2031:

- Employment capacity to increase by 9,000 jobs; and
- Housing stock to increase by 11,000 dwellings.

The proposed development would be consistent with the draft Strategy by providing an additional 91 aged care dwellings and would improve housing choice in the locality.

2. STATUTORY CONTROLS

Section 79C(1)(a) requires Council to consider any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and other prescribed matters.

2.1 Hornsby Local Environmental Plan 1994

The subject land is zoned Special Uses A (Community Purposes) Zone under Hornsby Local Environmental Plan 1994 (HSLEP). The objectives of the Special Uses zone are:

- to provide for the cultural needs of the community,*
- to identify land for the provision of community services and facilities,*
- to ensure that community uses are compatible with the amenity of the area in which they are located.*

The proposed development is not inconsistent with the zone objectives.

The proposed development is defined as '*housing for aged or differently abled persons*' under HSLEP and is permissible in the zone with Council's consent.

There is no floor space ratio (FSR) development standard in Clause 15 for the Special Uses A zone.

Clause 18 of HSLEP sets out heritage conservation provisions within the Hornsby area. The property at 2A Manor Road is identified on Schedule D of the LEP as a heritage item of regional significance. Pursuant to Clause 18(6) the Council must not determine a development application until it has considered a conservation plan for the item. A conservation plan was prepared by Godden Mackay Logan dated June 2006. The development application was referred to the NSW Heritage Council and Council's Heritage Committee that raised no objection to the proposal.

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

The application was lodged with the Council on 11 July 2007 and seeks consent for the use of the premises for "*multi-unit access for life residential dwelling complex for independent aged persons of all mobility levels.*" At the time the application was lodged, the provisions of SEPP (Seniors Living) 2004 did not apply to the site as Clause 4 of the Policy did not apply to properties identified as bushfire prone land or properties listed on the State Heritage register. Rather, Council was able to consider the application under the provisions of the Hornsby Shire LEP 1994 that permits '*housing for aged or differently abled persons*' with consent in the Special Uses A zone.

Amendment No. 2 to SEPP (Seniors Living) commenced on 14 October 2007. At that time the SEPP was modified and renamed SEPP (Housing for Seniors or People with a Disability) 2004. The modified SEPP now applies to land identified as bushfire prone and listed on the State Heritage register. However, the savings provisions in Clause 53 of the SEPP (Housing for Seniors) are not applicable to the application as this only relates to a development application made pursuant to chapter 3.

The applicant submitted modified plans in November 2007 and clarified that the application was not being lodged pursuant to SEPP (Housing for Seniors) 2004.

The SEPP (Housing for Seniors or People with a Disability) 2004 only applies to a development application made pursuant to the policy itself. This is reflected in chapter 3 of the Policy where most of the clauses contained within that chapter are worded as follows:

"A consent authority must not consent to a development application made pursuant to this chapter..."

The application is required to be assessed having regard to the relevant provisions contained with Hornsby Shire LEP 1994 relating to development for '*housing for aged or differently abled persons*' within the meaning of the definition in HSLEP. The Housing for Seniors SEPP is a relevant consideration as part of the assessment and must be taken into consideration pursuant to section 79C of The Act. However, as the development application is not being made pursuant to the SEPP, any non compliances with the standards contained in the Policy do not give rise to the need for the lodgement of a SEPP 1 objection. The SEPP is

a matter for consideration and some weight needs to be given to the Seniors Policy in the determination of the application.

The assessment of the proposal in accordance with the relevant requirements of SEPP (Housing for Seniors), is commented on as follows:

- **Clause 26 Location and access to facilities**

The Policy requires a public transport service to be available within 400 metres of the site, with suitable gradients along the access route.

Shorelink Bus Service 'Route 595' (Mills Avenue and Pacific Highway to Hornsby Station) services the area. The closest bus stop is located on the south side of Carrington Road near the Rosamond Street intersection, 200 metres from the site's main entrance driveway. The bus stop on the northern side of Carrington Road is 250 metres from the site. This pedestrian route is a relatively flat footpath 1.2 metres wide along most of the route along Rosamond Street. The gradient of the footpath to the bus stop along Carrington Road is 6%, which is accessible. Appropriate conditions are proposed to require upgrading works to the footpath where necessary.

The application also proposes to provide a dedicated 'shuttle bus' for the use of residents in addition to the existing public bus service. The shuttle bus would be used for trips for residents between the site and local services (i.e. shops and medical facilities) and for special day trip outings. Appropriate conditions are proposed to ensure compliance with this proposal.

The access arrangements for the development are appropriate.

- **Clause 27 Bush fire prone land**

The development is on bushfire prone land. The SEPP requires the development to comply with the document '*Planning for Bushfire Protection*'. The application was referred to the RFS as Integrated Development under the Rural Fires Act. The RFS has considered the proposal and does not object to the application and has provided a 'consolidated bush fire safety authority' as required under section 100B of the Rural Fires Act 1997. The fire safety authority applies to the entire property.

- **Clause 28 Water and sewer**

The property is serviced by reticulated water and sewerage.

- **Clause 29 Consider site compatibility criteria for applications to which clause 24 does not apply**

The proposed use of the site for housing for aged or differently abled persons, that is permissible pursuant to the HSLEP. The proposed use of the land is permissible with consent, is compatible with the natural environment, and the services and infrastructure are able to meet the demands arising from the development with appropriate consent conditions. The impact of the building bulk, scale, built form and character on the locality is assessed in this report.

- **Clause 30 Site Analysis**

The application plans, Statement of Environmental Effects and accompanying documents provide details on the existing site and locality.

- **Clause 31 Design of in-fill self-care housing**

The Policy requires Council to take into consideration the provisions of the '*Seniors Living Policy: Urban Design Guideline for Infill Development*' when considering applications lodged pursuant to the SEPP. The design principles in this guideline are considered in the assessment of the application.

- **Clause 33 Neighbourhood amenity and streetscape**

The proposed development contributes to the quality and identity of the area and has been designed to harmonise with the heritage significance of the site. The development maintains satisfactory neighbourhood amenity by:

- * providing building setbacks to reduce bulk and overshadowing;
- * using building form and siting that relates to the site's land form;
- * stepping the building height along the Manor Road frontage to be compatible with the scale of adjacent developments;
- * considering the impact of building walls on neighbours by providing appropriate setbacks;
- * establishing a suitable front setback that provides a landscape setting for the development; and
- * retention of significant trees where reasonable.

- **Clause 34 Visual and acoustic privacy**

The separation of the buildings from neighbouring residential properties complies with the Residential Flat Design Code (SEPP 65), as detailed in this report.

- **Clause 35 Solar access and design for climate**

The siting and orientation of the proposed units generally complies with the the Residential Flat Design Code as discussed under the heading of SEPP 65 in this report. Furthermore, a BASIX certificate has been submitted with the application to ensure the design minimises energy use.

- **Clause 36 Stormwater**

Adequate on-site stormwater detention is proposed.

- **Clause 37 Crime Prevention**

The applicant submitted a report addressing the principles set out in CPTED (Crime Prevention Through Environmental Design). The development would achieve passive and active surveillance, access control, territorial reinforcement, and space management.

- **Clause 38 Accessibility**

The proposed development has obvious and safe pedestrian links from the site to public transport services. Adequate access and parking is provided for residents and visitors.

- **Clause 39 Waste Management**

Adequate waste storage and collection facilities are available.

- **Clause 40 Development Standards**

The site area of 23,130sqm exceeds the minimum area of 1,000sqm under the Policy.

The property has a frontage of approximately 420 metres to the street, in excess of the minimum 20 metres under the Policy.

The Policy prescribes maximum height controls of 8 metres and 2 storeys for developments in residential zones where residential flat buildings are not permitted. This clause does not apply as the site is zoned Special Uses A, not residential. Furthermore, the clause does not apply as a residential flat building is not prohibited on this site given that multi-unit housing and strata subdivision are permissible land uses with consent.

- **Clause 41 Standards for hostels and self contained dwellings**

This clause provides development standards to ensure an adequate level of access for people with disabilities. The application includes a Disability Access Assessment report by Access Associates Sydney that addresses the controls in SEPP (Seniors Living).

Clause	Provision	Compliance
2(1)&(3)	Wheelchair access: 100% of the units must have wheelchair access by a continuous path of travel to an adjoining public road and to common areas	Yes The levels are designed to provide a continuous accessible path from the units to Mt Wilga House. From Mt Wilga house a 1.5m wide pathway is provided to Rosamond Street with a gradient of around 5%.
2(3)	Security: Pathway lighting	Yes Condition of consent.
2(4)	Letterboxes: Pathway lighting	Yes Condition of consent.
2(5)	Private car accommodation If car parking (not being car parking for employees) is provided: (a) car spaces must comply with AS2890, and (b) 5% of total number must be designed to enable width to be increased to 3.8 metres,	Yes AS2890.1-1993 requires spaces 3.2m (wide) by 5.4m (long). Each of the units is provided with one resident space that complies with these dimensions. This does not include the additional visitor/staff spaces. 78% of the spaces are designed to enable the width to be increased to 3.8metres+
2(6)	Accessible entry Every entry must comply with AS4299.	Yes The Access report advises that the majority of units comply. Compliance is achievable via a condition of consent.
2(7)	Interior: general Widths of internal corridors and circulation at internal	Yes The Access report advises that the units appear to comply with AS1428.1.

	doorways must comply with AS1428.1.	Compliance via condition of consent.
2(8)	Bedroom One bedroom to accommodate a wardrobe and queen-size bed and a clear area of at least 1200mm at the foot of the bed and 1000mm wide beside the bed and the wall.	No This requires a clear space of 3530mm (w) by 3230mm (l) excluding the wardrobe. The dimensions provided on the plan indicate that some of the main bedrooms are under sized - for example some units are 3100 by 3200mm. Compliance is achievable via condition of consent, that may require some minor internal modifications.
2(9)	Bathroom At least 1 bathroom to comply with AS1428.1	Yes The Access report advises that the units can comply with AS1428.1. Compliance via condition of consent.
2(10)	Toilet Provide a visitable toilet per AS4299.	Yes The Access report advises that the units can comply with this provision. Compliance via condition of consent.
2(11)	Surface finishes Slip resistance surfaces.	Yes Compliance via condition of consent
2(12)	Door hardware	Compliance via condition of consent.
2(13)	Ancillary items	Compliance via condition of consent.
2(15)	Living room and dining room Circulation space per AS4299	Yes The DA plans are annotated to show a circulation space with a 2250mm diameter. Compliance via condition of consent
2(16)	Kitchen Circulation space per Cl.4.5.2 of AS4299 Width of door approaches of 1200mm	Yes Access report advises that a clear space between benches of 1450mm is acceptable. Compliance via condition of consent.
2(17)	Access to kitchen, main bedroom, bathroom and toilet	N/A Only applies to multi-storey self contained dwellings.
2(18)	Lifts in multistorey buildings	Yes Lift access provided. Condition of consent to require compliance with clause E3.6 of the BCA
2(19)	Laundry Width of door approach to be 1200mm Clear space in front of appliances of 1300mm	Yes Access report advises that all units have provision for a washing machine and dryer with a clearance of 1300mm.
2(20)	Storage for Linen Linen cupboard per AS4299	Yes Linen cupboards provided. Condition of consent to require compliance.
2(21)	Garbage A garbage storage area must be provided in an accessible location	Yes An accessible path of travel is provided to the garbage storage rooms in the basement. Caretaker to transfer bins to the collection area.

- **Part 7 - Development standards that can not be used as grounds to refuse consent**

This part of the Policy provides controls that can not be used as grounds to refuse consent. However, pursuant to clause 47, this part does not apply to development applications relating to land to which a listing under the Heritage Act 1977 applies.

2.3 State Environmental Planning Policy No. 65: Design Quality of Residential Flat Development

State Environmental Planning Policy No. 65 (SEPP65) establishes design criteria for the assessment of residential flat developments and for residential components of mixed developments. The primary aim of SEPP 65 is to “*improve the design quality of residential flat development in New South Wales*”. Part 2 of SEPP 65 requires that consideration be given to 10 principles. The following section of the report includes an assessment of the proposed development against these principles.

Principle 1: Context.

The site contains the State heritage listed Mt Wilga House and grounds and is bounded by Mt Wilga Private Hospital to the north, Manor Road to the south, Rosamond Street to the east and low density residential properties to the west.

The Hospital precinct to the north comprises a mixture of 1 to 2 storey buildings with large building footprints characteristic of ‘institutional’ structures. The subject property comprises Mt Wilga House that is predominantly a 1 to 2 storey building. The surrounding residential area comprises detached dwelling houses of 1 to 2 storeys. Therefore the current character of the locality comprises buildings of varying bulk positioned in a landscaped setting, with a maximum building height of up to 2 storeys.

The proposed development comprises five residential flat buildings within a landscaped setting, with a building height ranging from 2 to 4 storeys and a predominant height of 3 storeys. The siting of the proposed buildings respond to the site constraints, provide for the retention of Mt Wilga House and its curtilage and establishes a landscaped setting around the development. A concern raised as part of the community consultation process is that the building height would be inconsistent with the existing character of the locality. The bulk and height of the development is discussed further under ‘Scale’ below.

Principle 2: Scale.

The appropriateness of a development’s height and bulk is most usefully assessed against planning controls related to these attributes, such as maximum height, floor space ratio, site coverage and setbacks, as established by the planning principles established by the Land & Environment Court.

There is an absence of planning controls related to bulk and height for development of *housing for aged or differently abled persons* within the Special Uses A zone. The planning controls indicate that the intent is to maintain the existing character of the area. However, in this assessment it is also relevant to take into account the form of the (then) SEPP 5 scheme for the site for which development consent already exists (DA/2355/99).

- **Height**

The surrounding residential area has a predominant building height of up to 2 storeys. The approved development has building heights ranging from 2 to 5 storeys whereas the current proposal has building heights ranging from 2 to 4 storeys, with a predominant height of 3 storeys. Planning principles indicate that buildings do not have to be the same height to be compatible with the locality. Where there are significant differences in height, it is easier to achieve compatibility when the change is gradual rather than abrupt. To address this planning principle, the plans were modified to step back the 3rd floor of the buildings adjacent

to Manor Road and minimise the extent of basement projecting above ground. In addition, the building height along the western interface with the adjacent Residential A zone steps back at the upper levels to provide for a transition in the building height.

Floor Space Ratio

The proposed FSR of 0.504:1 is consistent with the approved development (DA/2355/99) that had an FSR of 0.52:1. It is not appropriate to delete the heritage curtilage area from the FSR calculation as suggested within a resident submission as the land forms part of the DA site and furthermore the redevelopment provides for the long term use and conservation of the heritage property. The difference between the existing and proposed schemes is that the bulk has been resited, improving views to and open space around the heritage item. The Council's Heritage Committee has advised that "*the proposal presents better to the heritage item than the approved proposal*".

Site Coverage

There is no site coverage control guideline in SEPP (Housing for Seniors). A site coverage of 24% is achieved which is consistent with the existing development consent (DA/2355/99). The extent of total communal landscaping of 68% exceeds the minimum development standard of 30% in SEPP (Housing for Seniors). Similarly a deep soil zone of 58% is achieved which exceeds the minimum of 15% prescribed in SEPP (Housing for Seniors). In summary, this scheme has significantly minimised site coverage, resulting in additional building height, in order to establish a generous landscape setting for the proposal and Mt Wilga House.

Setbacks

Front setbacks and the way they are treated are an important element of urban character. Buildings A, C and E adjacent to Manor Road have a variable setback ranging from 5 to 15 metres, with an average setback of 9 metres. This facilitates the stepping of the building bulk and provides for the retention of the majority of established trees along the Manor Road streetscape. The planning controls for the adjacent Residential A zone establishes a minimum front building setback of 7.6 metres (for 2 storey buildings). Furthermore the existing approved development on the site had a predominant 6 metre setback to Manor Road. Therefore the building setbacks proposed are not inconsistent with the desired future character of the area.

Setbacks from side boundaries determine the rhythm of building and void. The siting of buildings A, C and E adjacent to Manor Road comply with the building separation controls in the Residential Flat Design Code (RFDC). Furthermore the siting of the proposed buildings provides for greater separation between the proposed buildings, and between the proposed buildings and Mt Wilga House, as compared to the existing consent (DA/2355/99) enhancing the open setting of the house. For example, the proposed siting incorporates a break between Buildings A and C that allows for the preservation of a view of high historic significance to Mt Wilga House, that was previously removed with the approved SEPP 5 development.

The development is setback 5.5 to 7 metres from the western property boundary with the adjacent Residential A (Low Density) properties. The top floor (level 3) is set back 12 metres from the side boundary. The proposed setback provides for the retention of landscaping along the boundary, is consistent with that achieved with the existing consent, and achieves building separation in accordance with the RFDC.

In summary, the above analysis of the height, floor space, site coverage and building setbacks of the development indicates that the scale of the proposed development provides a considered response to the scale of the existing and approved developments in the locality.

Principle 3: Built Form.

The proposal is an appropriate built form in that it provides a considered response to the scale of the existing and approved developments in the locality; the built form is articulated to minimise incongruous visual impacts on the streetscape; and the development responds to the heritage objectives for the site. (See further discussion under ‘Scale’ above.)

The materials of the proposed apartment buildings are compatible with the locality and include a mix of materials including rendered brickwork on the lower two levels and recessed weatherboard cladding on the upper floor to visually reduce the bulk of the building. The roof pitch and charcoal coloured tiles are compatible with the streetscape. The balconies have rendered up-stands. Aluminium louvered sliding screens are provided to some of the balconies, notably those facing west in Building E. A natural earth colour scheme is proposed to the elevations including beige, browns and greys. This colour scheme is generally consistent with the area.

The built form provides for good internal amenity and outlook as the units are consistent with the provisions of the RFDC. The development provides for an extensive landscape setting, well in excess of the minimum standards indicated in Part 7 of SEPP (Housing for Seniors).

Principle 4: Density.

There is no maximum FSR for the site prescribed in the HSLEP. The proposed FSR of 0.504:1 does not exceed the FSR of 0.52:1 approved with the previous application DA/2355/99. Furthermore the FSR is similar to the densities anticipated for aged housing developments pursuant to the development standards in SEPP (Housing for Seniors). (Also see previous discussion under ‘Scale’ above.)

Principle 5: Resource, energy and water efficiency.

The design of the development is consistent with the provisions of the RFDC that provides guidelines for passive energy efficient design. In addition a BASIX certificate has been submitted which demonstrates that the development would achieve the objectives of water conservation and energy efficiency. A waste management plan has been submitted for the construction phase.

Principle 6: Landscape.

The development application provides an adequate landscaped area in accordance with the RFDC and the standards in SEPP (Housing for Seniors), resulting in a compatible landscape setting for the building.

Principle 7: Amenity.

The development achieves an acceptable level of amenity for the existing and future residents of the locality as the scheme generally complies with the design practice rules of thumb in the RFDC as summarised below:-

Issue	Rule of Thumb	Compliance
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Building Depth	<i>Developments that propose wider than 18m must demonstrate how satisfactory day lighting and natural ventilation is achieved.</i>	No Building depths of 25m proposed, therefore the applicant has provided a solar access analysis. (See discussion below under Solar Access.)
Building Separation	<i>Within a development and between adjoining sites, min building separation of:</i> <ul style="list-style-type: none"> • 12m between habitable rooms/ balconies • 9m between habitable rooms and non-habitable rooms • 6m between non-habitable rooms 	Yes Compliance with the intent of the controls achieved. (See discussion below under 'Privacy.)
Communal Open Space and Deep Soil Zones	<i>Min 25-30% of the site area to be communal open space.</i> <i>Min 25% of the open space area to be a deep soil zone.</i>	Yes 68% of the site is common open space, with 85% of that area being a deep soil zone (no basement underneath). The siting of deep soil zones provides for tree and shrub planting along the property's boundaries to create a suitable setting for the development.
Daylight Access	<i>3 hrs of direct sunlight in mid winter to 70% of units living rooms and balconies.</i>	No Living rooms – 54% (3hrs) Balconies – 69% (3hrs) (See discussion below under Solar Access.)
Single Aspect Units	Max 20% units single aspect. Limit single aspect units with a southerly (SW to SE) aspect to a maximum of 10% of the total units.	No Total 24% single aspect units. 11% single aspect units with a southerly aspect. (See discussion below under Solar Access.)
Cross-ventilated units:	60% units (min)	Yes 78% dual aspect units provide for cross ventilation.
Back of kitchen to window	8m (max)	No Extent of variation limited. Majority of apartments comply.
Balcony depth	2m (min)	Yes All units have a useable balcony area with a minimum dimension of 2m.
Ceiling height	2.7m (min)	Yes Complies.
Unit storage	8m ³ / unit (2 bed units) 10m ³ / unit (3 bed units)	Yes Majority of units comply. Address via condition of consent.

As detailed in the above table, the proposed development does not comply with a number of the prescriptive standards within the RFDC. The matters of non-compliance are detailed below, as well as a brief discussion on compliance with relevant performance standards.

(a) Solar Access

The RFDC and SEPP (Housing for Seniors) 2004 prescribe that developments should aim for 3 hours of direct sunlight in mid winter to living rooms and private open space areas for 70% of units. This control is reinforced in the prescriptive control for building depths.

The development does not comply with the above, and provides the following:

- Living rooms – 54% of units (3hrs), 72% of units (2 hrs)
- Balconies – 69% of units (3hrs), 85% of units (2 hrs)

The RFDC prescribes that a reduction to 2 hours of direct sunlight to units is acceptable in higher density areas. While the property is not sited within a high density area, relaxation of the sunlight access controls to the units is supported as it minimises the length of the building footprints which has a positive outcome for the setting of the heritage item. The buildings are designed to ensure that cross ventilation is achieved. Furthermore, the design of the proposal is more energy efficient than the existing consent, and is therefore consistent with the objectives of ESD. Accordingly, it is considered that a departure from the development standard is appropriate in the circumstances of the case.

(b) Overshadowing

The siting of the buildings does not result in excessive overshadowing of neighbouring residential buildings or private open space areas. As a guide, the Council's Low-Density Multi-Unit Housing Development Control Plan requires dwellings to be designed to allow at least 4 hours of sunshine to the private open space required and 3 hours to north facing windows of adjacent dwellings in mid winter between 9am and 3pm. The shadow diagrams submitted with the application demonstrate compliance with the above guideline. Furthermore as the shadow diagrams relate to the original (bulkier) buildings, the extent of overshadowing that would occur would be even less than described below:

Residential Properties to the West – In mid-winter the buildings would overshadow a small portion of the side boundary at 9am, with no overshadowing occurring by 10am. This complies with the above guideline.

Residential Properties to the South – In mid-winter the buildings would overshadow the front yard and façade of buildings to the south of Manor Road at 9am, with overshadowing reducing significantly by 10am to a small portion of the front garden area. There is also limited overshadowing in the afternoon on the front garden at 3pm. This indicates that there would be no overshadowing between 10.30am and 2.30pm in midwinter. This complies with the above controls.

(c) Privacy

The 'Privacy' element in the Council's Residential DCPs prescribes that where windows or balconies of dwellings are within 12m of windows or balconies of other dwellings, some form of screening should be provided to ensure visual privacy. The RFDC (SEPP 65) also prescribes a similar 12 metre separation between habitable rooms and residential balconies to provide visual and acoustic privacy for existing and new residents.

The separation between buildings on site generally complies with the building separation provisions above. Some minor non compliances occur between some of the ground floor terrace areas, which is addressed by 1500mm high fences around the courtyards, as indicated on the landscape plans.

The siting and design of the buildings complies with the above privacy controls as discussed in the following:

Building B to Hospital – balconies are located within 5 metres of the hospital buildings to the north. The adjacent hospital building is a covered outdoor lunch area that has a privacy screen erected along the southern elevation. No privacy impacts.

Building D to Hospital – balconies are located 10 metres from the ward bedroom windows. Fencing and landscaping is proposed along the boundary. Furthermore a site inspection found that these ward bedrooms have tinted glass so that privacy conflicts are limited.

Building E to Hospital – complies with building separation standards. The ward bedroom windows are setback 15 metres from the unit balconies.

Building E to No. 6, 8 & 10 Manor Rd – the terraces and balconies are located more than 12 metres from these properties. Privacy along this boundary is enhanced with the retention of existing substantial trees.

Principle 8: Safety and security.

The applicant submitted a crime risk assessment report with the application, as recommended by the RFDC for developments with more than 20 dwellings. The design of the development considers safety by enabling casual surveillance, reinforcing territory, controlling access and managing space.

Principle 9: Social dimensions.

The development provides for a mix of units including 4 × 1 bed, 76 × 2 bed, and 12 × 3 bed units, including the 1-bed caretakers unit.

The RFDC recommends the following minimum apartment sizes can contribute to housing affordability (2 bed units of 70sqm, and 3 bed units of 95sqm). In comparison the majority of the units are well above the minimum areas prescribed above. The larger units have partly resulted from the need to provide adequate circulation for disabled access to satisfy the intent of the development to provide for aged or differently abled persons.

The Council has not adopted any unit mix controls for housing for aged persons.

Principle 10: Aesthetics.

In accordance with the Court's planning principles on aesthetics, the weight given by the Court to expert opinion on architectural style, form or character should be tested against two main criteria, ie: whether the opinion is mandated by a design code, such as the *Residential Flat Design Code* or the *Burra Charter*, or alternatively reflects the subjective preferences of a local community expressed in a local policy, such as a development control plan, and/or whether the opinion is a widely accepted professional view, or at least a view held by a sizable group of professionals, rather than one individual opinion.

The proposal is generally consistent with the design principles in the RFDC. There are no prescriptive DCP controls that prescribe the aesthetics desired for aged housing on the site. The buildings have a clear base, middle and top and materials that are appropriate for the setting. Both the NSW Heritage Office and Council's Heritage Committee support the development.

2.4 State Environmental Planning Policy No. 11: Traffic Generating Development

The application was not required to be referred to the Roads and Traffic Authority pursuant to Clause 7 of SEPP No. 11 as the property is more than 500 metres from Galston Road and accommodates less than 200 vehicles. Notwithstanding this, the application was referred to the RTA for comment as discussed later in this report.

The provisions of SEPP (Infrastructure) 2007 (*which repeals SEPP No.11*) does not apply pursuant to the Savings provisions in Clause 11 as this development application was lodged prior to the commencement of SEPP (Infrastructure) 2007 in January 2008.

2.5 State Environmental Planning Policy No. 32: Urban Consolidation (Redevelopment of Urban Land)

This SEPP requires the Council to implement the aims and objectives of this Policy to the fullest extent practicable when considering development applications relating to urban land. The objectives include to implement a policy of urban consolidation to promote the social and economic welfare of the State. There are no prescriptive controls within this policy.

2.6 State Environmental Planning Policy No. 44: Koala Habitat Protection

This policy aims to encourage the proper conservation and management of areas of native vegetation that provide habitat for koalas. Council's mapping indicates that the site may be potential koala habitat. The environmental assessment of the application demonstrates that the development would have no impact regarding koala habitat.

2.7 State Environmental Planning Policy No. 55: Remediation of Land

SEPP 55 requires that Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated or requires remediation for the proposed use. The applicant has submitted a Contamination Assessment report. The report concluded that the site is suitable for residential development.

2.8 Sydney Regional Environmental Plan 20: Hawkesbury Nepean River

The site is located within the catchment of the Hawkesbury – Nepean Rivers. As such, the land is subject to the SREP No. 20. Part 2 of this Plan contains general planning consideration and strategies requiring Council to consider the impacts of this proposal on water quality, scenic quality, aquaculture, recreation and tourism. The aim of the Plan is to protect the environment of the Hawkesbury – Nepean Rivers system including its water quality. The proposed development would have minimal potential to impact on the water quality of the catchment, with the implementation of management measures for the construction and operational phases of the development. Appropriate conditions are recommended with respect to installation of sediment and erosion control measures prior to and during construction.

2.9 Heritage Development Control Plan

The primary purpose of the DCP is to manage heritage in Hornsby Shire and to provide guidance and outline specific controls for development relating to heritage items.

This application proposes alterations and additions to Mt Wilga House and its use as a communal facility to support the aged housing development. The application was accompanied by a Conservation Management Plan and Heritage Impact Statement by

Godden Mackay Logan heritage consultants. The application has been considered by the NSW Heritage Council and the Council's Heritage Committee and no objections have been raised to the development on heritage grounds.

2.10 Car Parking Development Control Plan

The primary purpose of this DCP is to provide car parking controls for development.

The proposal complies with the prescriptive parking rates for housing for aged or differently abled persons. The DCP requires a total of 91 spaces designed for people with disabilities. In comparison the application provides a total of 94 spaces designed for people with disabilities, plus an additional 19 visitor/staff spaces in compliance with conventional minimum dimensions.

2.11 Access and Mobility Development Control Plan

The primary purpose of this DCP is to assist proponents and Council in ensuring the requirements for equitable access are satisfied when building work is proposed. The development is designed to provide suitable access for people with disabilities. (See previous discussion under SEPP (Housing for Aged or Differently Abled Persons).)

2.12 Waste Minimisation and Management Development Control Plan

A waste management plan has been provided and is to be implemented in accordance with recommended conditions consistent with this DCP.

2.13 Sustainable Water Development Control Plan

The DCP aims to achieve the implementation of sustainable water practices into the management of development in the Hornsby Shire. (See discussion under SREP No. 20 above.)

3. ENVIRONMENTAL IMPACTS

Section 79C(1)(b) of the Act requires Council to consider "*the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*".

3.1 Natural Environment

- ***Threatened Species***

The south-western corner of the site has been mapped by Hornsby Shire Council as containing *Sydney Turpentine Ironbark Forest* (STIF), an Endangered Ecological Community as listed under the Threatened Species Conservation Act 1995. The applicant has submitted a Vegetation Management Plan to address the retention and maintenance of this remnant population. The ecological assessment undertaken by Council has found that the proposal is unlikely to have a significant impact on threatened species, populations, communities and their habitat as listed under the Threatened Species Conservation Act 1995, subject to the implementation of appropriate measures.

- ***Tree Preservation***

There are approximately 40 trees on this site near the proposed works comprising of a variety of species including native *Angophora*, *Eucalyptus*, *Lophostemon* and introduced species such as *Cinnamomum*. 26 trees are identified as significant.

There are 23 trees located between the new aged housing buildings and Manor Road. These trees are predominantly *Lophostemon confertus* (brush box) ranging in height from 8 to 20 metres, 13 of which are significant. The application proposes the removal of 8 trees, 1 of which is significant and in good condition. In addition, 2 significant brush box trees that are proposed to be retained may be impacted by the works as they are located less than 4 metres from the proposed buildings. The other trees proposed to be removed are in poor condition.

There are 10 trees located between proposed Building E and the western (side) boundary. These are brush box trees ranging in height from 14 to 18 metres, 8 of which are significant. The application proposes the removal of 2 trees, 1 of which is significant. In addition, 3 significant brush box trees that are proposed to be retained may be impacted by the works as they are located less than 4 metres from the proposed buildings.

In summary, the application proposes the removal of 2 significant trees that are in good condition (Trees No.6, 16) and potentially may impact on 5 significant trees that are proposed to be retained (Tree No. 3,7,8,11,17). Council's tree assessment concludes that the development would be satisfactory subject to the imposition of appropriate consent conditions that includes replacement planting. The potential impact of the development on trees proposed to remain is addressed by consent conditions that may require excavation for the basement to be undertaken by piercing the foundations rather than earth battering. With the imposition of the recommended conditions, a suitable landscape screen and setting to the new buildings along Manor Road and the western boundary would be achieved.

The landscape plan also indicates the removal of a number of other trees through the site, that were not addressed by the applicant's arborist report. The removal of these trees is not essential to facilitate the current application and the recommended conditions of consent do not support their removal. A subsequent application to remove these trees would be necessary to be lodged with appropriate supporting documentation for Council's separate consideration.

3.2 Built Environment

An assessment of the setting, siting and design of the building has been previously undertaken in Section 2.0 of this report 'Statutory Controls'. Other built environment matters not previously addressed in detail are discussed below.

- **Heritage**

Council's Heritage Committee raised no objection to the development and provided the following comments in August 2007:

"The proposal is for alterations and additions to the heritage listed house, demolition of minor structures on the site and construction of a multi-unit housing development comprising 88 units. The property is listed as a heritage item ("Mount Wilga" and grounds) of regional significance under the provisions of Schedule D (Heritage Items) of the HSLEP 1994. The property is also located in the vicinity of property No. 45 Rosamond Street (house) and No. 5 Manor Road, Hornsby (suspension bridge) which are listed as heritage items of local significance under the provisions of Schedule D (Heritage Items).

At its meeting on 6 August 2007, the Heritage Advisory Committee compared the approved redevelopment plans to the current Development Application for the Mount Wilga site. The Committee commented that the proposal provides improved view corridors to the heritage house from Manor Road and a more open setting for the heritage house in view of the layout of buildings and the central axis through the site. The Committee noted that the facilitation of multiple vehicle entrances directs vehicles away from the heritage item. Also, that the design of the proposed addition to the rear of Mount Wilga House is improved by its alignment to the existing house. The Committee generally agreed that the proposal presents better to the heritage item than the approved proposal. Accordingly, the Committee resolved that no objection be raised to the proposal on heritage grounds.”

The amended application plans received in November 2007 were referred to the Council’s Heritage Committee. The Committee raised no objection to the amended design and provided the following additional comments:

At its meeting on 4 February 2008, the Heritage Advisory Committee discussed the proposed amendments and commented that the proposed setting back of upper floor units would improve the presentation of the development to Manor Road. It was further noted that the amendments do not alter the siting of proposed multi-storey buildings or the extensions to Mount Wilga House. As such, the Committee reiterated its earlier comments that the proposal provides improved view corridors to the heritage house from Manor Road and a more open setting for the heritage house in view of the layout of buildings and the central axis through the site (as compared to the earlier approved plans). Also, the design of the proposed addition to the rear of Mount Wilga House is improved by its alignment to the existing house, as opposed to the approved plans. Accordingly, the Committee resolved that no objection be raised to the proposal on heritage grounds.”

- **Views**

The Conservation Management Plan (CMP) prepared for the site, and approved by the Heritage Council, identifies a number of significant views from the public domain towards Mt Wilga House. All the significant views are over the permanent conservation order land (in the east of the property) are retained as part of this application. The one significant view from the public domain to Mt Wilga in the west of the site is over the existing service driveway. The siting of the proposed buildings allows for the vista over the existing service driveway between proposed buildings A and C, to be retained. In comparison, the existing approved consent for the property included buildings that extended along the frontage of Manor Road (outside the permanent conservation area boundary), eliminating the view along the service driveway.

One community submission objected to tree planting along the Rosamond Street frontage as it would block vistas to Mt Wilga House. The proposal would not block all views from the public domain to the property. Rather the landscape plan includes tree planting at 12 to 15 metre centres in the vicinity of Rosamond Street and the establishment of a low 1.2 metre tall hedge along the boundary.

- **Traffic**

The proposed development would generate 182 additional vehicular movements per day with peak movements of 18 vehicles per hour (based on the RTA's Guide to Traffic Generating Development).

While the site is currently vacant, the last lawful use was as a Buddhist Temple and Administration Centre. The traffic report prepared in 1993 for the Buddhist Temple (DA No.689/93) identified that the peak traffic generation of the site was in the order of 30 vehicles on a Sunday and 18 vehicles on a week night. There are no intersection works required as a consent condition for the existing aged housing approval DA No.2355/1999.

The RTA's recommendation for the current application is to close right turn movements from Carrington Road into Galston Road. This intersection is located 500 metres to the north-east of the property. The RTA argued that this was necessary because of the deficient sight distance and the declined gap selection ability of elderly drivers and the increase in traffic. A recommended condition of consent has been included that requires the applicant to undertake the necessary intersection works.

The applicant's traffic report of 23 January 2008 advises that "*if Council proceeds with banning right turn movements at Carrington Road to address an existing safety concern then upgrading works will be required at the Galston Road/ Clarinda Street intersection.*" The traffic modelling of the road network shows that as a result of the proposed development and the need to limit traffic movements at Carrington Road to left in and left out movements, the level of service at the intersection with Galston Road / Clarinda Street would degrade from existing level of service D to level of service F. This is considered to be unsatisfactory and would result in excessive queuing for residents if another control mode is not implemented at this intersection.

Having regard to the necessary intersection works at Carrington and Galston Roads as a result of the development, it may be necessary for Council's Traffic & Road Safety Branch to liaise with the RTA regarding the possible upgrade of Clarinda Street and Galston Road to a signalised intersection.

- **Parking**

The parking rates in SEPP (Housing for Seniors) require a minimum of 0.5 car spaces for each bedroom. These controls prescribe a total minimum amount of parking for the development and does not differentiate between resident, visitor and staff spaces. The development provides 191 bedrooms which requires 96 parking spaces in accordance with the SEPP. The proposal provides 94 spaces (designed for disabilities) plus an additional 19 visitor/ staff spaces with conventional minimum dimensions, equating to a total provision of 113 spaces.

Council's Car Parking DCP prescribes the following parking rates for housing for aged or differently abled persons:

Dwellings < 55sqm	= 0.5 spaces
Dwellings 55 to 85sqm	= 0.85 spaces
Dwellings > 85sqm	= 1 space

The above rates require 91 parking spaces to be provided for the 91 aged units, plus one space for the caretakers unit. The proposed development exceeds this minimum requirement. Therefore the number of parking spaces provided complies with the Council's DCP controls. Furthermore the majority of these parking spaces (some 71 spaces) are designed to be 5.4

metres wide so that the residents also have the option to use the single disabled parking space as a 'double' space if appropriate.

There is no rate prescribed for visitor or employee parking within the car parking DCP. If a visitor rate of 1 space per 5 dwellings for multi-unit housing was applied, an additional 18 visitor spaces would be necessary. The proposed development can provide 21 visitor/staff spaces (19 spaces in the basement and 2 spaces at grade). To address concerns within a community submission that visitor parking would be monopolised by staff in the Mt Wilga communal facility, consent conditions limit staff numbers to address potential external impacts. Furthermore consent conditions limit the activity within the communal facility to uses ancillary to the aged housing development only.

In summary, the development exceeds the minimum carparking required on the site in accordance with the Council's Car Parking DCP and SEPP (Housing for Seniors). Therefore it is considered that there are no grounds for refusal on the basis of inadequate on-site parking.

- ***Impact on Existing Easements***

The proposed driveway works near the northern boundary are located within a right-of-way and easement for services benefiting the adjacent Mt Wilga Hospital. The driveway requires the removal of an existing east-west pedestrian link to the rear of the Hospital. The Council raised concerns regarding the impact on the Hospital's access and egress in the event of emergencies as a result of removing this walkway. In response, the applicant proposes to replace the existing pedestrian walkway, with a new structure/ramp located immediately adjacent to the rehabilitation building. A letter was provided from Mt Wilga Hospital raising no concerns with the proposed solution. Pursuant to Clause 13 of HSLEP for the purposes of enabling development to be carried out in accordance with that Plan, any covenant that would otherwise restrict the development does not apply. The variation to the existing covenants is addressed by recommended consent conditions.

- ***Acoustic Impact***

Whilst it is recognised that there would be some increase in noise associated with an increase in development on site, it is considered that the noise increase would not be significant as to warrant a refusal of the application in itself. Any unreasonable or excessive noise is governed by the *Protection of the Environment Operations Act 1997*. Appropriate conditions are recommended, including a limit on the activities within the communal facility to minimise disturbance to the neighbourhood.

3.3 Social Impacts

The proposal would provide additional housing stock for seniors, in an area with an aging population and a need for such housing. This housing facilitates local residents' aging in place and continuing their social ties with the community.

3.4 Economic Impacts

The economic impact of the proposed development on the locality is considered minimal and the provision of accommodation for older people would have a positive effect on the local economy.

4. SITE SUITABILITY

Section 79C(1)(c) of the Act requires Council to consider “*the suitability of the site for the development*”.

4.1 Bushfire Risk

Approximately a third of the site is identified as bushfire prone in the south of the site. The main driveway into the property from Rosamond Street is outside the area identified as bushfire prone on Council’s maps.

The application was referred to the Rural Fire Service (RFS) as Integrated Development requiring a bushfire safety authority pursuant to the Rural Fires Act 1997. A number of resident submissions received were concerned about the impact of the development on bushfire safety in the locality. A copy of the submissions received were sent to the RFS on 21 August 2007 and on 25 February 2008. The final submission from the RFS raises no objection to the application.

A number of residents were concerned that a bushfire evacuation plan should be developed for the area and were concerned that the aged housing development would create a traffic bottle-neck during emergencies. The Hornsby Ku-ring-gai Local Disaster Plan (DISPLAN), prepared by The Hornsby Ku-ring-gai Local Emergency Management Committee, currently details the arrangements for the prevention of, preparation for, response to and initial recovery from emergencies within the local government areas of Hornsby and Ku-ring-gai. The consent conditions recommended by the RFS also requires a site specific bushfire evacuation plan to be prepared for the property.

5. PUBLIC PARTICIPATION

Section 79C(1)(d) of the Act requires Council to consider “*any submissions made in accordance with this Act*”.

5.1 Community Consultation



The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 26 July 2007 to 16 August 2007. A supplementary notification was undertaken from 27 August 2007 to 6 October 2007. During this period, Council received 63 submissions. In addition one petition with 163 signatures was received.

Amended plans were received in November and placed on public exhibition until 15 February 2008. During this period Council received an additional 42 submissions. This includes a submission from the ‘*Mt Wilga Neighbourhood Group*’. In addition an additional petition with 177 signatures was received.

The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



SUBMISSIONS PLAN

<ul style="list-style-type: none"> • PROPERTIES NOTIFIED 	<ul style="list-style-type: none"> X SUBMISSION RECEIVED 	 <ul style="list-style-type: none"> PROPERTY SUBJECT OF DEVELOPMENT 	
<p>37 SUBMISSIONS RECEIVED OUT OF MAP RANGE</p>			

The submissions objected to the development, generally on the following grounds that the development would result in:

- Development that is excessive in building bulk, height and site coverage;
- Excessive residential density;
- Overflow parking to the surrounding roads;
- Unacceptable traffic on local streets;
- Traffic hazards as the surrounding local streets do not provide for 2 way flow given existing overflow parking from Mt Wilga Hospital;
- An increase in traffic accidents, particularly at the Carrington Road/ Galston Road intersection and the Roper Lane link to Bridge Road;
- A traffic bottleneck during a bushfire from evacuating elderly residents;
- An inadequate landscape setting due to inadequate open space and setbacks;
- The removal of local vistas and views across the property;
- The application failing to provide a site compatibility certificate from the Department of Planning;
- Overlooking residential properties to the west;
- Overshadowing on Manor Road and over properties to the south and west;
- Unacceptable noise from the additional units, traffic and use of the communal/ recreational facility;
- Unacceptable stormwater drainage impacts;

- A scheme that does not adequately provide for aged persons and/or development not being occupied by aged persons;
- An inadequately serviced development with poor sewerage, water etc;
- Removal of the potential for public access to the house and grounds;
- An increase in crime from construction activity and additional residents;
- Pollution from traffic fumes and garbage odours;
- Noise, dust and traffic impacts during an extended construction phase;
- Structural damage to neighbouring properties;
- A precedent for other high-density high rise in Manor Road;
- A decrease in local property values;

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

5.1.1 Existing Parking conflicts

Many submissions raised concerns that Mt Wilga Hospital is not complying with its development consent, resulting in an existing overflow parking problem. Mt Wilga Hospital is not the subject of the current development application and concerns raised are separately being investigated by Council.

5.1.2 Site Compatibility Certificate

Some submissions have argued that the applicant requires a site compatibility certificate from the Department of Planning pursuant to Clause 24 of SEPP (Housing for Seniors). This clause does not apply because a hospital is a permissible landuse within the Special Uses A zone. Furthermore, this clause only applies to development applications made pursuant to this Chapter. As detailed in the report, the application is not lodged pursuant to SEPP (Housing for Seniors) 2004. Rather the proposed use is permissible with consent pursuant to the provisions of the HSLEP.

5.1.3 Drainage

Council's engineering assessment of the stormwater impacts of the development concludes that the proposal would comply with Council's requirements in relation to onsite detention and stormwater management. Appropriate consent conditions are recommended. This includes conditions to upgrade the existing drainage system in Manor Road and associated drainage easements.

5.1.4 Occupation of the Units

The assessment and consent conditions would ensure that the units are suitably designed for the elderly or people with disabilities. Some submissions are concerned that the proposed units would be occupied by residents other than those that are aged or disabled. Appropriate conditions are proposed, including a restriction as to user in accordance with section 88E of the Conveyancing Act 1919, to ensure that only seniors and people with a disability are residents.

5.1.5 Inadequate Local Utility Services

Local utilities services such as sewerage, water and electricity are available to the site.

5.1.6 Public Access to the Property

Some submissions argue that Council should purchase this site and that the proposal should provide for public access to the house and grounds. The property was sold by the Commonwealth Government 20 years ago. The property is not zoned for public open space. This is not a valid planning reason to refuse the current development application.

5.1.7 Garbage Odours

The waste from the development is to be stored in the basement. The temporary collection area is located 100 metres from the closest neighbouring residential property.

5.1.8 Construction Impacts

Conditions of consent are recommended to address the impacts of the development during the construction phase.

5.1.9 Structural damage to neighbouring properties

Consent conditions are recommended including a requirement for a dilapidation report to be prepared by a chartered professional structural engineer at the applicant's expense, detailing the structural condition of adjoining properties, including Council's property, and their ability to withstand the proposed excavation.

5.1.10 Precedent

All development applications are required to be assessed on their individual merits, taking into account the applicable planning controls. This property is unique in that it is zoned Special Uses A, unlike much of the surrounding area that is zoned Residential A. The surrounding Residential A area is subject to different planning controls. In this respect, approval of the development would not create a precedent in the locality.

5.1.11 Property Values

Concerns were raised that the development would adversely effect the property values of the dwellings in the locality. This is not a relevant matter for consideration under Section 79C of the Act.

5.2 Public Agencies

The development application is Integrated Development under the Act. Accordingly, the application was referred to the following Agencies for comment:

5.2.1 Roads and Traffic Authority

The application does not require referral to the Roads and Traffic Authority (RTA) pursuant to SEPP No.11 – Traffic Generating Development nor does it require referral pursuant to the provisions of SEPP (Infrastructure) 2007. However, the application was referred to the RTA for its advice given potential traffic impacts.

The RTA raised no objection to the application and provided recommendations including that the Galston Road/ Carrington Road intersection be converted into one-way in, or left in/ left out. This is necessary because of deficient sight distances and an increasing accident history

that would further increase with increased volumes of traffic. The RTA advised that these roadworks were necessary due to the declined gap selection ability of elderly drivers and the increase in traffic.

In response to the above recommendation, Council enquired with the RTA whether it would agree to the implementation of a round-a-bout at the intersection of Galston Road/ Clarinda Street. The RTA advised that it does not support the construction of a roundabout at the intersection of Galston Road and Clarinda Street as roundabouts are unsuitable at intersections with highly unbalanced traffic flows, such as the subject intersection. If any works are to occur at this intersection the RTA would prefer traffic signals to be installed as they provide a better level of service and with spare capacity. The RTA did not recommend the installation of any works at the Galston/ Clarinda intersection as part of this consent. As the subject development would not have any significant impact upon that intersection, it is not considered appropriate that the cost of these works be burdened upon the applicant.

The RTA's recommendations are addressed in the consent conditions at Schedule 1.

5.2.2 Rural Fire Service

The application was referred to the Rural Fire Service (RFS) as Integrated Development requiring a bushfire safety authority pursuant to the *Rural Fires Act 1997*. A number of submissions received were concerned about the impact of the development on bushfire safety in the locality. A copy of the submissions received were forwarded to the RFS.

Initially, concerns were raised by the RFS regarding the proximity of Building A to the bushfire hazard. The applicant submitted additional information for consideration, including radiant heat modelling. The final response from the RFS has raised no objection to the application. The consent conditions recommended by the RFS are included in Schedule 1.

5.2.3 NSW Heritage Council

An application was submitted under Section 60 of the *Heritage Act 1977* to the NSW Heritage Council for multi-unit housing on the site in July 2006. The NSW Heritage Council approved the application pursuant to Section 63 of the *Heritage Act* on 2 March 2007. A development application was subsequently submitted to Council in July 2007, incorporating plans for aged housing similar to the plans approved by the Heritage Council in March 2007. This is the subject of the current report.

Council referred the current development application to the Heritage Council as Integrated Development under the *Heritage Act 1977*. A number of resident submissions received were concerned about the impact of the development on the heritage significance of the property. A copy of the submissions received were sent to the Heritage Office on 21 August 2007 and 25 February 2008. The Heritage Office has advised Council that the Heritage Council has raised no objection to the development application.

The Heritage Council's response dated 29 August 2007 advised the following:

"The Heritage Council received a set of preliminary documents for S60 Application No .2006/S60/114 on 27 July 2006. The Heritage Council determined that the scheme could be supported if the façade of the new buildings was redesigned to fit more easily with the Mt Wilga house. This scheme was revised into the form described by the following documents which is very similar to the revised documents referred to the Heritage Council by Hornsby Shire Council..."

Hornsby Shire Council referred un updated but very similar scheme to the Heritage Council for comment on 20 July 2007, received on 24 July 2007. The Heritage Council advises that the roof pitch in the drawings sent by Hornsby Shire Council is in accordance with Heritage Council conditions. The schemes are not significantly different from a heritage point of view in other respects, and the Heritage Council has no objection to the scheme described in the following drawings as sent by Council...

Amended plans were submitted to Council in November 2007 and referred to the Heritage Office for comment. Further minor amendments to the plans were sent in February 2008 and May 2008. This involved shifting some building bulk away from Manor Road and providing details on works required to the property's Rosamond Street driveway. The Heritage Council raised no objections to these further amendments.

The Heritage Council's General Terms of Approval (GTAs) are addressed in the recommended consent conditions at Schedule 1.

6. THE PUBLIC INTEREST

Section 79C(1)(e) of the Act requires Council to consider "*the public interest*".

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

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

7. CONCLUSION

The application proposes erection of a development for Aged or Differently Abled Persons.

This application has been assessed having regard to the Heads of Consideration under Section 79C(1) of the Act, Hornsby Local Environmental Plan and the provisions of the relevant State Environmental Planning Policies. Council does not have a specific Development Control Plan for the proposed use as "housing for aged or differently abled persons" or for the subject zone or area, however, the proposal complies with the general controls in SEPP (Housing for Seniors) and the SEPP 65 Residential Flat Design Code.

The design provides for variable building setbacks to the side and rear property boundaries and the proposal is considered to provide a reasonable outcome for the subject site and surrounding land uses through consideration of height, design and landscaping provided.

Approval of the application is recommended.

SCHEDULE 1

PART 1 – DEFERRED COMMENCEMENT

THE CONSENT SHALL NOT BECOME EFFECTIVE OR OPERATIVE UNTIL THE FOLLOWING INFORMATION IS SUBMITTED TO THE SATISFACTION OF THE COUNCIL. ALL DEFERRED COMMENCEMENT CONDITIONS ARE TO BE COMPLIED WITH WITHIN 1 YEAR FROM THE DATE OF THIS CONSENT.

- A. The Right of Way and Easement for Services, burdening the subject property and benefitting the adjoining property to the north shall be either extinguished or modified in such a manner that its modified form will enable the development to proceed without contravening the terms of the Right of Way or the Easement for Services. The right of way is to ensure unencumbered access along the approved pedestrian link to the south of the Hospital's rehabilitation building for all emergency services at all times and for the egress of the occupants of the rehabilitation building in a fire or emergency situation.
- B. The Restriction as to User, burdening the subject property and benefitting the adjoining property to the north shall be either extinguished or modified in such a manner that its modified form will enable the development to proceed without contravening the terms of the Restriction as to User.
- C. The easements for drainage, burdening the subject property and benefitting the adjoining property to the north shall be either extinguished or modified in such a manner that its modified form will enable the development to proceed without contravening the terms of the Restriction as to User.

All Section 88B restrictions and covenants created as part of this consent are to contain a provision that they cannot be extinguished or altered except with the consent of Hornsby Shire Council.

PART 2

UPON SATISFACTION OF THE DEFERRED COMMENCEMENT CONDITIONS IN PART 1, THIS CONSENT SHALL OPERATE IN ACCORDANCE WITH THE FOLLOWING CONDITIONS

General Conditions Applying to All Stages**Approved Plans and Supporting Documentation**

1. The development must be carried out in accordance with the following plans as amended in red and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

Architectural Plans – Aged Housing Apartments

<i>Plan No.</i>	<i>Rev</i>	<i>Drawn by</i>	<i>Dated</i>
Site Analysis Plan 05009/DA001	C	Giles Tribe Architects	19-03-07
Site Plan 05009/DA002	G	Giles Tribe Architects	11-04-08
Basement Plan 05009/DA100	J	Giles Tribe Architects	05-04-08
Level One/ Site Plan 05009/DA101	J	Giles Tribe Architects	18-01-08
Level Two Floor Plan 05009/DA102	G	Giles Tribe Architects	18-01-08
Level Three Floor Plan 05009/DA103	G	Giles Tribe Architects	18-01-08
Roof Floor Plan 05009/DA104	G	Giles Tribe Architects	18-01-08

Site Sections-1 05009/DA400	F	Giles Tribe Architects	09-11-07
Site Sections-2 05009/DA401	F	Giles Tribe Architects	09-11-07
Site Sections/ Elevations 05009/DA402	G	Giles Tribe Architects	18-01-08
Elevations 05009/ DA403	B	Giles Tribe Architects	24-01-08
Walkway for Hospital Access SK100	C	Giles Tribe Architects	July 2008
Section – Walkway SK101	A	Giles Tribe Architects	July 2008

Architectural Plans – Mount Wilga House

<i>Plan No.</i>	<i>Rev</i>	<i>Drawn by</i>	<i>Dated</i>
2050602/00 Drawing Index and North Elevation	A	Robertson & Hindmarsh	15.12.05
2050602/01 Ground Floor Plan	E	Robertson & Hindmarsh	Undated (received 11.07.07)
2050602/02 Basement Plan	A	Robertson & Hindmarsh	Undated (received 11.07.07)
2050602/03 Roof Plan	A	Robertson & Hindmarsh	Undated (received 11.07.07)
2050602/04 Elevation	F	Robertson & Hindmarsh	Undated (received 11.07.07)
2050602/05 Elevation	F	Robertson & Hindmarsh	Undated (received 11.07.07)

Civil Plans

<i>Plan No.</i>	<i>Rev</i>	<i>Drawn by</i>	<i>Dated</i>
Stormwater Layout Catchment Plan C0101	08	Meinhardt	11.01.08
Stormwater Layout Basement Level C0102	08	Meinhardt	11.01.08
Stormwater Layout Level 1 C0103	08	Meinhardt	11.01.08
Stormwater Layout Manor Road Works C0104	08	Meinhardt	11.01.08
Stormwater Layout 39 Manor Road C0105	08	Meinhardt	11.01.08
Soil and Water Management Stage 1 C0201	08	Meinhardt	11.01.08
Soil and Water Management Stage 2 C0202	08	Meinhardt	11.01.08
Soil and Water Management Stage 3 C0203	08	Meinhardt	11.01.08
Soil and Water Management Stage 4 C0204	08	Meinhardt	11.01.08
Stormwater Detention Details C0301	08	Meinhardt	11.01.08

Landscape Plans

<i>Plan No.</i>	<i>Rev</i>	<i>Drawn by</i>	<i>Dated</i>
Landscape Plan LA01	E	Taylor Brammer	18.01.08
Landscape Plan LA02	D	Taylor Brammer	18.01.08
Landscape Plan LA03	D	Taylor Brammer	18.01.08
Landscape Sections LA04	B	Taylor Brammer	18.01.08
Landscape Details LA05	A	Taylor Brammer	18.01.08

<i>Document No.</i>	<i>Prepared by</i>	<i>Dated</i>
Statement of Environmental Effects	Deborah Sutherland Planning	April 2007
Supplementary Statement of Environmental Effects	Deborah Sutherland Planning	November 2007
Shadow Diagrams DA800 9am June 21 DA801 10am June 21 DA802 Noon June 21 DA803 3pm June 21	Giles Tribe Architects	
Solar Access Diagrams Basement 05009/DA804 A Level 1 05009/DA805 A Level 2 05009/DA806 A Level 3 05009/DA807 A Level 4 05009/DA808 A	Giles Tribe Architects	11.01.08
Photomontages	Giles Tribe Architects	04-02-08

3D View – 1 05009/DA-V01 3D View – 2 05009/DA-V02		
Basix Certificate 172211M	Unknown	29-01-08
Vegetation Management Plan	Cumberland Ecology	January 2008
Bush Fire Safety Compliance Report	Roger Fenwick	July 2007
Schedule of Materials and Finishes Plan: 05009/DAF01B	Giles Tribe Architects	19-03-07
Stage 2 Environmental Site Assessment	Consulting Earth Scientists	5 December 2005
Disability Access Assessment Report	Access Associates	February 2007
Landscape Sections (D00898825)	Taylor Brammer	22 April 2008

Plans on Site

2. A copy of all approved plans, specification and documents (including the construction certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Use of the Premises

3. The approved development must be occupied or used solely for the approved use. No separate occupation or use of any part of the approved development shall take place without prior development consent, (other than for exempt or complying development).
4. All activities within the communal facility (Mt Wilga House) are to be ancillary and subsumed by the aged housing development. Any Doctors rooms and the like are to provide services only to those residents living on the property.
5. The use of the communal facility (Mt Wilga House) is to be restricted to those times listed below:

Monday to Sundays 8.00am 10.00pm

This does not include caretaker activities.

6. The communal facility (Mt Wilga House) is to accommodate a maximum of five staff on-site at any one time.

Use of Materials

7. The finished surface materials, including colours and texture of any building and/or hard paved areas, shall blend with the surrounding environment and shall be non-glare.
8. The aluminium louvered sliding screens illustrated on the building elevations are to be designed and installed so that at least half (50%) of the elevation width remains opened at any one time, at each of the balconies. For example, this may require the 4 panelled sliding screen to be reduced to 2 panels wide on Building E (west).

Access & Mobility

9. The development is to be designed and constructed to comply with the standards concerning accessibility and useability for self contained dwellings in Schedule 3 of

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. This may require minor internal modifications to the plans only. A suitably qualified access consultant is to certify compliance with this condition prior to the issuance of a construction certificate.

10. Footpaths from the site to bus stops in the vicinity of the site, shall be constructed on Rosamond Street and Carrington Road in accordance with *AS1428* and *Austroroads*, to ensure a continuous path of travel to bus services in accordance with the requirements of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.
11. The owner of the premises shall provide a dedicated Village Bus Service for the use of the residents of the development. The bus is to be capable of carrying at least 10 passengers and shall operate at least 2 round trips daily from the site to a local centre that provides residents with access to the following:
 - (i) shops, bank service providers and other retail and commercial services;
 - (ii) community services and recreation facilities;
 - (iii) the practice of a general medical practitioner
12. A restriction as to user is to be created under Section 88B of the Conveyancing Act 1919 that limits the occupants of the residential units to '*housing for aged or differently abled persons*', as defined in the following:

housing for aged or differently abled persons means residential accommodation which may take any building form and may be or include a hostel and which is, or is intended to be used as, housing for the permanent accommodation of:

 - (a) *persons over 55 years of age, or*
 - (b) *persons of any age who, as a result of having a mental, physical or sensory impairment, either permanently or for an extended period, have substantially limited opportunities to enjoy a full and active life.*

The above restriction does not apply to the caretakers' unit.

Support for Neighbouring Properties

13. A Dilapidation Report is to be prepared by a chartered professional structural engineer at the applicant's expense, detailing the structural condition of adjoining properties, including Council's property, and their ability to withstand the proposed excavation. This report must include any measures required to be incorporated to ensure that no damage will occur during the course of works. The report shall be submitted to the principal certifying authority prior to any excavation works taking place. Such works shall take place in accordance with the recommendations of the report.
14. If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must:
 - i) preserve and protect the building from damage;
 - ii) if necessary, underpin and support the building in an approved manner; and
 - iii) at least 7 days before excavating, give notice of intention to do so to the adjoining owner and furnish particulars to the owner of the proposed work.

Fencing

15. The northern property boundary adjoining Mt Wilga Hospital shall be enclosed with a 1.5m fences/screens/walls to protect the privacy of future occupants as well as adjoining owners. The fence/screen/wall is to be erected prior to the occupation of the dwellings. The finished surface materials, including colours and texture, shall blend with the surrounding environment and shall be non-glare.
16. The new sandstone entry gates indicated on landscape plan LA03D is not approved as no elevation details were submitted with the application for assessment purposes. Any such works is to be the subject of a separate application to the Council.

Noise and Dust Control during Construction Phase

17. A Noise and Dust Management Plan (NDMP) must be submitted to Council prior to the issuance of a construction certificate to address noise and dust emission during the construction phase. The NDMP must be prepared by a suitably qualified environmental consultant. The NDMP should address, but not be limited to, the following:
 - (a) Establishment of maximum prescriptive noise emission and dust emission targets for the construction phase. These targets are to comply with the Protection of the Environment Operations Act and the NSW Environment Protection Authority's Environmental Noise Control Manual - guidelines for construction sites,
 - (b) Recommend management measures to be implemented to achieve the targets established in (a) above,
 - (c) Recommend monitoring equipment to be installed to measure noise and dust emissions,
 - (d) Propose a regular monitoring and review programme by a suitably qualified environmental consultant to ensure the construction complies with noise emission and dust emission targets,
 - (e) Procedures to record and address any complaints regarding noise and dust;
 - (f) Propose a reporting system to certify the ongoing compliance of the development with this condition.

Time to Complete Development

18. The works set forth in the plans and specifications and approved under this consent, once commenced, shall be completed within 5 years from the date of commencement.

Building Code of Australia

19. All building work must be carried out in accordance with the requirements of the *Building Code of Australia*.

Should there be any alternative solutions listed as Category 2 Fire Safety Provisions and outlined in the Environmental Planning and Assessment Regulation 2000, a fire engineering report should be forwarded to the Brigades for comment under Clause 144 of the Environmental Planning and Assessment Regulation 2000.

Hours of Construction

20. In order to maintain the amenity of adjoining properties, site works shall be restricted to between 7.00 am and 6.00 pm, Monday to Friday and 8.00 am to 1.00 pm Saturday. No work shall be undertaken on Sundays or public holidays. Plant, goods or materials shall not be delivered to the site outside the approved hours of site works unless otherwise approved by Council.

Long Service Levy

21. Under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 any work costing \$25,000 or more is subject to a Long Service Levy. The levy rate is 0.35% of the total cost of the work and shall be paid to either the Long Service Payments Corporation or Hornsby Shire Council. Under section 109F (1) of the Environmental Planning & Assessment Act, 1979 this payment must be made prior to a construction certificate being issued.

Fire Safety Schedule

22. In accordance with clause 168 of the Environmental Planning and Assessment Regulation 2000 fire safety measures shall be implemented in the building. A schedule of all proposed and existing Essential Fire Safety Measures to be installed in the building (eg: hydrants, hose reels, exit signs, smoke control systems) shall be submitted with the Construction Certificate application and distinguish between the existing and proposed fire safety measures. Should the Construction Certificate involve the use of an alternate solution, the application must also be accompanied by details of the performance requirements that the alternate solution is intended to meet and the assessment methods use to establish compliance with those performance requirements.

Fire Safety Certificate – Final

23. In accordance with Part 9, Division 4 of the Environmental Planning & Assessment Regulation, 2000, the owner of the building must, on completion of the building, provide Council with a certificate in relation to each essential fire safety or other safety measure implemented in the building.

Fire Safety Statement - Annual

24. In accordance with Part 9, Division 5 of the Environmental Planning & Assessment Regulation, 2000, at least once in each period of 12 months after the date of the first fire safety certificate, the owner shall provide Council with a further certificate in relation to each essential service installed in the building.

Survey Reports

25. To ensure that the building and any associated structures are correctly positioned on the site, a report prepared by a registered surveyor is to be submitted to the principal certifying authority at each level of construction of the building (prior to the pouring of concrete) indicating that the finished floor level is in accordance with the approved plans.

Fire Egress

26. A construction management plan is to be submitted with the Construction certificate application demonstrating that unimpeded egress can be provided from the southern fire exit of the adjoining rehabilitation building in a fire or emergency situation to an open space within the rehabilitation building allotment during construction. Any temporary measures are to remain in place until the permanent egress walkway is constructed.

Construction Certificate – Subdivision/Engineering Works

27. A construction certificate must be obtained from either Council or an Accredited Certifier. Engineering design plans and specifications are to be prepared by a chartered professional engineer for any proposed works. The plans and specifications are to be in accordance with development consent conditions, appropriate Australian standards, and applicable Council standards, in particular “Hornsby Shire Council Civil Works - Design and Construction Specification”. The information that is required to be submitted with a construction certificate is as follows:
- (a) copies of compliance certificates relied upon
 - (b) Four (4) copies of the detailed engineering plans in accordance Hornsby Shire Council's Civil Works - Design Specification 1999. The detailed plans may include but are not limited to the earthworks, roadworks, road pavements, road furnishings, stormwater drainage, landscaping and erosion control works.
 - (c) Hornsby Shire Council's approval is required for any works within the road reserve of Manor Rd or Rosamond Rd prior to the issuing of a construction certificate for these works.
 - (d) Hornsby Shire Council's approval is required for any works within Council controlled drainage easements prior to the issuing of a construction certificate for these works

Construction Management Plans

28. In order to enable unencumbered movement of traffic in the public road during construction works, a Construction Management Plan, including a Traffic Management Plan and scaled construction plan prepared by a suitably Chartered and Qualified Chartered Engineer and Qualified Worksite Traffic Controller shall be prepared and submitted with the Construction Certificate. The Construction Management Plans shall identify all works for each stage and how to effectively manage the construction traffic for that stage. The plans shall address the following requirements:-
- (a) A copy of the plans shall be submitted for consideration and written approval by Hornsby Shire Council's Manager, Subdivisions prior to the release of the Construction Certificate.
 - (b) The plans shall detail the order of construction works and arrangement of all construction machines and vehicles being used at the same time during all stages.

- (c) In order to prevent injury, accident and loss of property, no building materials, work sheds, vehicles, machines or the like shall be allowed to remain in the road reserve area without written consent of Hornsby Shire Council.
 - (d) The Plan shall be generally in compliance with the requirements of the Road and Traffic Authority's "Traffic Control at Worksites Manual 1998" and detailing:-
 - (i) Public notification of proposed works;
 - (ii) Long term signage requirements;
 - (iii) Short term (during actual works) signage;
 - (iv) Vehicle Movement Plans, where applicable;
 - (v) Traffic Management Plans;
 - (vi) Pedestrian and Cyclist access and safety;
 - (e) The plans shall indicate traffic controls including those used during non-working hours and shall provide pedestrian access and two-way traffic in the public road to be facilitated at all times.
 - (f) The Applicant and all employees of contractors on the site must obey any direction or notice from the Prescribed Certifying Authority or Hornsby Shire Council in order to ensure the above.
29. Any damage caused to Council's assets in the vicinity of the subject site as a result of construction works associated with the approved development is to be repaired by the applicant/developer prior to the issue of the Occupation Certificate.
30. All service vehicles including garbage trucks, removalist trucks, emergency vehicles and the like are only permitted to use the Rosamond Rd access. The Manor Rd access is to be signposted to prohibit trucks entering or exiting this driveway.

Works As Executed

31. A works-as-executed plan prepared by a chartered professional engineer or a registered surveyor must be lodged with Hornsby Shire Council when the engineering works are complete for each of the different stages, prior to the release of the Occupation Certificate.

Traffic and Access

32. The existing median island in Galston Road, in the vicinity of Carrington Street, is to be extended to effectively convert the Galston Road/ Carrington Street intersection to left in/ left out. This shall be designed to meet RTA's requirements, and endorsed by a suitably qualified and chartered Engineer (i.e. who is registered with the Institute of Engineers, Australia). The design requirements shall be in accordance with the RTA's Road Design Guide and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to the RTA for consideration and approval prior to the release of construction certificate by Council and commencement of road works.
33. All deliveries shall be made within the site, under no circumstances delivery vehicles to be loaded or unloaded upon the public road.

34. All off street carparking including the provision of aisle, ramps and access driveways shall comply with Australian Standard AS 2890.1 - 1993 Off Street Car Parking and AS 2890.2 - 2002 Off Street Commercial facilities.

Boundary Planting Hedge

35. Planting along the boundary of the Mt Wilga Heritage Estate (Rosamond Avenue) shall be *Photinia glabra* 'Rubens' planted at 1 metre centres in mulched planter beds. Shrubs to be installed at minimum pot size of 5 litres.

Screen Planting (Manor Road Building)

36. To ensure adequate screen planting is provided to the carpark area adjacent to building along the Manor Road boundary, additional planting shall be provided.

Screen planting to the on-grade landscape setback zone adjacent to Building C must include Twenty (20) additional *Syzigium* 'Royal Flame' planted at 2 metre centres in mulched planter beds. Shrubs to be installed at minimum pot size of 5 litres.

Boundary Planting (Northern Boundary)

37. To ensure adequate tree planting in scale with the proposed building is provided additional planting shall be provided.

Boundary tree planting to the on-grade landscape zone must include Five (5) additional *Lophostemon confertus* (brushbox) capable of reaching a mature height of 10 metres planted in locations adjacent to building B in mulched planter beds. Trees to be installed at minimum pot size of 25 litres.

Existing Retaining wall to south western Boundary

38. The existing retaining wall in the south west corner of the site shall be retained and protected during construction. Screen planting shall be placed along boundary in front of the wall.

Planter Boxes / On Slab Planting

39. To ensure a sustainable landscape is achieved to on slab planter box areas, they shall include automatic irrigation, subsoil drainage (proprietary drainage cell, 50mm sand and filter fabric), and waterproofing. Soil depths additional to the requirement of subsoil drainage shall be a minimum of 1000mm with a soil volume of 35 cubic metres for trees and a minimum of 500mm for shrubs.

Landscape Works To All Areas – Plant sizes and densities

40. Excepting the above specific requirements, all landscape works shall also meet the minimum construction standards identified in the Hornsby Shire Council Landscape Code for Development Applications including the construction of mulched planter beds, planting of trees in pot sizes as specified on approved plans, shrubs in minimum 5 litre pot sizes and groundcovers in minimum 150mm pot sizes in the densities identified in the submitted planting specification.

Tree Fencing

41. Prior to work commencing, tree protection fencing must be erected around the trees to be retained along the western and southern boundaries at a 3m setback. The tree fencing must be constructed of 1.8 metre cyclone chainmesh fence'. The tree protection fencing must be maintained in good working order until the completion of all building or development works. A statement of compliance from a qualified tree surgeon or environmental consultant shall be submitted to Council prior to the issue of the Construction Certificate.

Excavation

42. To prevent damage to tree roots, parking (vehicles or plant) or placement of building materials (including disposal of cement slurry and waste water) within 3m of all trees to be retained onsite, is strictly forbidden. No tree roots located within the specified tree setback shall be severed or injured in the process of any site works during the construction or landscaping phases of the approved project.

Note: In order to achieve this condition, this may require excavation for basement purposes to be undertaken by piercing the foundations (rather than earth battering).

43. Excavation for the installation of any underground service within the specified tree setbacks of all trees on the western and southern boundaries has been approved by Council's Parks and Landscape Team and shall be carried out by using the thrust boring method only. [Tunnel boring shall be carried out at least 1 metre beneath natural ground surface and at a setback radius of 3 metres to minimise damage to tree root systems.] The severance of tree roots greater than 50mm in diameter is not permitted. If roots of such diameter are revealed by hand excavation, the applicant must provide Council's Parks and Landscape team an assessment by a qualified arborist that outlines the likely impact of severing the roots or an alternative location for the service trenching.]
44. Any works undertaken within the specified tree setbacks must be overseen by a qualified and experienced arborist.

Tree Preservation Order

45. A Tree Preservation Order exists within the Hornsby Shire whereby the cutting down, topping, lopping or wilful destruction of any tree exceeding 3.0 metres in height (except where exempt as defined under Council's Tree Preservation Order) or substantially altering the soil level around the trunk or within 3 metres of the trunk, without prior written consent is prohibited. Release of the Construction Certificate gives automatic approval to the removal of those trees located on the subject property within 3 metres of the foundation footprint of an approved residential, commercial or community building, garage, inground swimming pool or within the alignment of approved vehicular access or parking area. Other trees shall not be removed or damaged without approval being granted under Council's Tree Preservation Order. Penalties apply for non-compliance.

Maintain Canopy Cover

46. This application approves the removal of the following trees Nos.2, 6, 13, 13a, 14, 15, 16, 21, 23, and 39 only. To maintain local tree canopy cover, the trees that are approved to be removed along the western and southern boundaries are to be replaced

with a *Lophostemon confertus* (Brush Box). In addition any other tree that later dies or is damaged during or after the development, is to be replaced with a *Lophostemon confertus* (Brush Box). The planting location shall be in the immediate location of where the tree is removed, but not within 3 metres of the foundation walls of a dwelling or inground pool. The pot size is to be a minimum 100 litres and the trees must be maintained and protected until they reach the height of 5 metres.

Note: The above condition does not exempt the property from the provisions of Council's Tree Preservation Order. The purpose of the above is to ensure that if any trees decline in the future, they are suitably replaced to maintain the approved landscape setting for the development.

BUSHLAND AND BIODIVERSITY MANAGEMENT TEAM

47. The Landscape Plan prepared by *Taylor Brammer*, Drawing No. LA01 Revision E, shall be amended and submitted for approval to the Bushland and Biodiversity Team prior to the issuance of a construction certificate. The Landscape Plan shall be amended to remove the gravel maintenance path passing through the Sydney Turpentine Ironbark Forest community to be revegetated under the guidance of the Vegetation Management Plan prepared by *Cumberland Ecology*, January 2008.
48. The maintenance, revegetation and future management of the Sydney Turpentine Ironbark Forest (STIF), an Endangered Ecological Community as listed under the *Threatened Species Conservation Act 1995*, shall be undertaken in accordance with the Vegetation Management Plan for 2a Manor Road, Hornsby, prepared by *Cumberland Ecology* dated January 2008.
49. All erosion and sediment controls (i.e. geotextile sediment fence and straw bales) shall be in place prior to commencement of works so as to protect the adjacent bushland and native fauna habitat. Fencing should comply with the EPA publication '*Managing Urban Stormwater: Soils & Construction*'. Techniques used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Council guidelines. All techniques shall remain in proper operation until all development activities have been completed and the site fully stabilised. This condition must be complied with during demolition and building work.
50. To protect the bushland and retained trees from potential damage on the development site the applicant is to ensure that a temporary fence shall be erected, prior to commencement of works at 2a Manor Road, Hornsby, to protect the Sydney Turpentine Ironbark Forest (STIF), an Endangered Ecological Community as listed under the *Threatened Species Conservation Act 1995*, from casual or inadvertent access. The fence shall be constructed from either wire mesh or orange barrier mesh and remain in place until the completion of site works.

WASTE MANAGEMENT

51. The waste and recycling collection point at the roundabout, the waste vehicle standing area and all other modifications to the roundabout must be completed prior to issue of the Occupation Certificate for Stage One.
52. Bin storage areas in the basements must be designed and constructed in accordance with Council's *Waste Minimisation and Management Development Control Plan*.

53. The caretaker is to transfer waste bins from the storage areas in the basement to the waste collection area adjacent to the round-a-bout. The transfer of bins is to occur within the site. At all stages of the development, a suitable path of travel is to be provided, which does not include steps. Ramp(s) or roll curb must be used between the different levels between the driveway/truck standing area, the bin collection point and each bin room.

Note: The Stage A plans indicate that the route between the Building A basement and waste collection area incorporates steps. For this stage a suitable temporary link is to be provided on-site outside of the permanent conservation area to facilitate the transfer of waste bins.

54. To confirm compliance with approved Waste Management Plans, prior to issue of the occupation certificate, submit to Council a Report of actual destinations and quantities of waste generated by the works carried out under this development consent. This Report is to be based on Documentary evidence (ie. tipping dockets/receipts from transfer stations and landfills) and be in the format of the Waste Management Plan Section One – Demolition Stage and/or Section Three – Construction Stage. If less than 60% waste was reused or recycled, then this Report must include the reasons why the 60% target was not achieved.
55. Waste from commercial activities on site (including but not limited to medical services) must not be placed in the residential bins and must be disposed of separately to the domestic/residential waste.
56. An easement entitling the Council, its servants and agents and persons authorised by it to enter upon the property and to operate equipment for the purpose of waste and recycling collection services. This easement must be granted in favour of Council prior to the occupation of the development.

Note: An 88(b) instrument is an acceptable form of easement subject to the area effected by the easement not requiring renewal upon sale or transfer at any time.

ENVIRONMENTAL PROTECTION

57. Prior to the release of the Construction Certificate a connection must be made to Sydney Water's sewerage system for all wastewater from the development.
58. The installation of rainwater tanks and associated plumbing must be in accordance with Sydney Water's *Guidelines for Rainwater Tanks on Residential Properties: Plumbing Requirements*, dated April 2003.
59. Any imported soils to the subject site must be Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997*.
60. All excavated material removed from the site must be classified in accordance with NSW EPA (1999) *Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes* prior to disposal. All excavated material must be disposed of to an approved waste management facility.

61. Council and the PCA must be notified immediately should the presence of asbestos or soil contamination, not recognised during the original assessment process be identified during demolition or construction works.
62. Prior to the issue of an occupation certificate, all mechanical plant equipment must have noise specifications, proposed locations and orientations reviewed prior to installation on the site to ensure that they will not singularly or in total emit noise levels which possess tonal, beating and similar characteristics or which exceeds background noise levels by more than 5dB(A). Should the calculated noise emissions from the mechanical plant equipment be in excess of the set limits, appropriate acoustic treatment must be implemented by a suitably qualified consultant.
63. The sediment basin/s shall be provided and designed to contain 25mm runoff from the 75th percentile, 5-day rainfall event or a 5 year ARI time of concentration storm event, with a volume capacity of water that will enter in 6 minutes, one hour storm event with an additional 20% capacity provided for storage of sediment. The overflow from the sediment basin/s shall be directed into the onsite detention tank. The outlet discharge shall be a slow control discharge (i.e. riser or a sheet flow spillway) designed to discharge at peak flow of a 20 year frequency storm. Trash collection screening filters should be installed at the inlet of the basin.
64. Waters captured in the sediment basin shall be flocculated to ensure that discharges contain no more than 50 millilitres of suspended solids, turbidity is no more than 30 ntu's and the pH is between 6.5 – 7.5 before being discharged. Gypsum (calcium sulfate) shall be used as the flocculant agent and applied within 48 hours following rainfall events. The flocculant shall be evenly distributed over the surface area of the sediment retention basin. Settled sediment shall be pumped out and disposed of to an approved waste management facility. Approval must be sought from Council prior to discharge into Council's stormwater system.
65. All headwall outlets shall incorporate flow velocity reduction controls (i.e. bedded boulders and small stones) to minimise erosive and scouring impacts to the watercourse. Accordingly, energy dissipator controls shall be landscaped to accommodate outlet sheet flow (forced jump). No engineering works are permitted within the bed of the watercourse.
66. Dust control measures must be utilised to ensure airborne dust particulates are abated and airborne movement of sediment blown from exposed disturbed areas is contained within the site.
67. Geofabric sediment fencing is to be installed 10 metres downslope running parallel to the proposed works. The sediment fencing shall be secured by post at 2 metre intervals with the geotextile fabric embedded at 200 mm in soil. Two metre returns shall be included at both ends of the sediment fencing.
68. The sediment basin/s primary outlet/s riser shall be designed to discharge at peak flow of a minimum of a 20 year frequency storm. Trash collection devices and a geotextile filter shall also be incorporated.

RURAL FIRE SERVICE

Asset Protection Zone

69. At the commencement of building works and in perpetuity the entire property shall be managed as an 'Inner Protection Area' as outlined within *Planning for Bush Fire Protection 2006* and the Services document 'Standards for asset protection zones.'

Water and Utilities

70. Water, electricity and gas are to comply with section 4.1.3 of *Planning for Bush Fire Protection 2006*.

Access

71. Public Road Access shall comply with section 4.1.3 (1) of *Planning for Bush Fire Protection 2006*.

Note: The Rural Fire Service clarified that this condition relates to the internal provisions of the future development only and in no way relates to the public roads within the surrounding neighbourhood.

Evacuation and Emergency Management

72. Arrangements for emergency and evacuation are to comply with section 4.2.7 of *Planning for Bush Fire Protection 2006*.

Design and Construction

73. New construction shall comply with Australian Standard AS3959-1999 'Construction of buildings in bush-fire prone areas' Level 1.
74. Roofing shall be gutterless or have leafless guttering and valleys to prevent the building up of flammable material. Any materials used shall have a Flammability Index of greater than 5.

Landscaping

75. Landscaping to the site is to comply with principles of Appendix 5 of *Planning for Bush Fire Protection 2006*. In this regard the following landscaping principles are to be incorporated into the development:
- (a) Suitable impervious areas being provided immediately surrounding the building such as courtyards, paths and driveways;
 - (b) Grassed areas/ mowed lawns/ or ground cover plantings being provided in close proximity to the building;
 - (c) Restrict planting in the immediate vicinity of the building which may over time and if not properly maintained come into contact with the building;

NSW HERITAGE COUNCIL

76. The garbage area must not be paved with in situ concrete. Precast concrete pavers may be used.

Note: this condition relates to the waste collection area adjacent to the round-a-bout, not to the basement storage areas.

77. An interpretation plan for the site, proportional to the site's significance, is to be prepared and submitted to the Director of the Heritage Branch to be approved prior to the application for the construction certificate. The interpretation plan shall include relevant historical themes and propose appropriate media and signage, its design and its location on the site. The Plan shall include the management of any possible future acquisition of moveable heritage items and relics with a provenance traceable to this site. The interpretation plan shall be developed in consultation with, and to the approval of, the nominated heritage architect and archaeologist;
78. The Strata Management Statements (or any buildings management documents) for the site are to include By-law(s) or other measures to ensure that ownership of the Mt Wilga's significant fabric and interpretation signage is by the site's body corporate, and that significant fabric is protected and conserved in accordance with the Conservation Management Plan, and adequate funds are provided in any building maintenance fund for this work. This information is to be submitted to the Director of the Heritage Branch to be approved prior to the application for an occupancy certificate;
79. A heritage architect is to be nominated for the project. An archaeologist is also to be nominated for the project. The name and experience of these heritage consultants shall be submitted to the Heritage Branch for approval prior to the application for the construction certificate;
80. The heritage consultants (as appropriate) shall advise on detail design resolution of new elements fixed to Mt Wilga house, inspect the demolition work to ensure no loss of significant fabric and elements, review the reuse of salvageable material, construction of new elements, and impact of services (to minimise impacts on significant fabric, openings and views) and conformity to the conditions of approval;
81. A report by the consultant shall be submitted to the Director of the Heritage Branch for approval within 1 month of the completion of the works, which describes the work, any impacts/damage and remedial works carried out;
82. The building contract selected for the project shall ensure that the nominated heritage architect has a contractual role as administrator of the contract for works to Mt Wilga House and gardens, with the ability to issue instructions to the contractor;
83. The scope of archaeological work on the site beyond the State Heritage Register boundary should be further discussed with the Heritage Council or its delegate. An application under either S140 or S139(4) shall be submitted and approved by the Heritage Council before the site works may commence. An archaeological Research Design may be required, depending upon the conclusion of these discussions.
84. The monitoring archaeologist shall make periodic inspections as required of the ground disturbance associated with the proposed building and landscaping works in this application affecting parts of the site identified as being of High archaeological potential in the March 2006 Mt Wilga and Grounds Conservation Management Plan.
85. The Applicant must ensure that should any Aboriginal objects be uncovered, excavation or disturbance of the area is to stop immediately and the Department of Environment and Conservation is to be informed in accordance with section 91 of the *National Parks and Wildlife Act, 1974*.

86. The Applicant must ensure that any excavation which reveals Aboriginal objects is referred to Department of Environment and Climate Change.
87. Prior to the commencement of the proposed works, all contractors and relevant personnel involved are to be made aware of the existence of historical archaeological remains at the site by way of an induction process undertaken by the nominated archaeologist. The induction shall also make the personnel aware of the possibility that more as yet unidentified archaeological remains may still exist and of the requirements of the *NSW Heritage Act, 1977* in relation to archaeological relics in the event that they are uncovered.
89. Suitable clauses, prepared in consultation with the nominated heritage consultants, are to be included in all contractor and subcontractor contracts to ensure that on-site personnel are aware of their statutory obligations in relation to the relics provisions of the *NSW Heritage Act, 1977* and the *National Parks and Wildlife Act, 1974* concerning Aboriginal archaeology in the event that any material is disturbed or exposed during site works;
90. If any unidentified historical archaeological remains or deposits are exposed during the works other than remains of mid twentieth-century (or later) buildings, excavation is to cease immediately in the affected areas and the nominated archaeologist is to be notified to undertake an evaluation of the potential extent and significance of such relics. The Heritage Branch is to be notified in accordance with Section 146 of the *Heritage Act*. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.
91. In the event of archaeological relics being exposed on the site, the relics should be appropriately documented according to the procedures outlined in the investigation strategy accompanying the application for any excavation permit or exception.
92. An archival record of the elements of the house and garden to be opened up or otherwise affected by these works, in accordance with Heritage Branch guidelines for items of State significance, is to be submitted to the Executive Director of the Heritage Branch for approval within 3 months of the completion of the works. One copy of the archival record shall be deposited with each of the Heritage Branch and Hornsby Shire Council's local studies collection.
93. Significant building elements, features, fixtures, fittings and fragile materials shall be adequately protected from potential damage during the works. Protection systems must ensure historic fabric is not damaged or removed;
94. The installation of new services to Mt Wilga house shall be carried out in such a manner as to minimise damage to, or removal of historic fabric, and shall not obscure historic features. Any penetrations through heritage fabric for pipes and ducts should be prevented. New services should avoid significant spaces, views and fabric;
95. A section 65A application (enclosed) under the *NSW Heritage Act, 1977* must be forwarded to the Heritage Council and be approved before these works may commence. One set of A3 size drawings must also be included.

Rosamond Street Driveway

96. To retain the significant setting and formal landscape qualities of the driveway and grounds to Mt Wilga, a retaining wall is to be constructed between the Rosamond Street entry to the property to the entry to the roundabout within the site. The retaining wall is to be constructed of sandstone to match the existing character and materials of "Mt Wilga". Construction details are to be submitted to and approved by Hornsby Council prior to the issuance of a Construction Certificate.
97. The driveway surface is to be relaid in an appropriate material in the form of either black bitumen or AC.

Note: this condition relates to the Rosamond Street driveway. Condition No. 101 requires the driveway surface to be Asphaltic concrete (AC).

DEVELOPER CONTRIBUTIONS

98. The payment of a contribution towards the cost of transport and traffic management, open space and recreation facilities, library and community facilities, bushland regeneration, stormwater drainage, civic improvements and section 94 plan administration in accordance with sections 94, 94A and 94C of the Environmental Planning and Assessment Act, 1979 and the Hornsby Shire Council's Development Contributions Plan 2007-2011. The contributions for the five (5) construction stages of the development shall be as follows:

Stage A:	17 dwellings @ \$9,191.95	– Total \$ 156,263.15;
Stage B:	14 dwellings @ \$9,191.95	– Total \$ 128,687.30;
Stage C:	16 dwellings @ \$9,191.95	– Total \$ 147,071.20;
Stage D:	22 dwellings @ \$9,191.95	– Total \$ 202,222.90;
Stage E:	23 dwellings @ \$9,191.95	– Total \$ 211,414.85;

The contribution is to be paid by the end of the financial quarter in which the development application was determined and prior to the issuing of a construction certificate for each respective Stage, whichever occurs first. The contribution will be adjusted in accordance with the underlying consumer price index for the subsequent financial quarters.

Note 1: It is recommended that you contact Council on 9847 6030 to ascertain the indexed value of contributions prior to payment.

Note 2: Council's Contribution Plan can be viewed at [www.hornsby.nsw.gov.au/Building & Development](http://www.hornsby.nsw.gov.au/Building%20&%20Development), or a copy may be inspected during business hours at the first floor of Hornsby Shire Council's Administration Building located at No. 296 Pacific Highway, Hornsby.

Additional Conditions Applying to Stage A

Access Way/Driveway

99. A separate application under the Local Government Act 1993 and Roads Act 1993 must be submitted to Council for approval for:-
- (a) The installation of a vehicular footway crossing servicing the development, and the removal of any redundant crossings.

This application can only be submitted by one of Council's Authorised Vehicular Crossing Contractors. You are advised to contact Council's Works Division on (02) 9847 6940 to obtain a list of Council's Authorised Vehicular Crossing contractors.

- (b) The undertaking of work within a public road (this includes laneways, public pathways, footways).
100. The concrete vehicular crossing within Rosamond St shall be a minimum of 200mm in depth reinforced with 2 layers of F72 steel reinforcing fabric.

The vehicular crossing in Rosamond St shall have a minimum width of 9m at the property boundary alignment in accordance with AS 2890.2. The maximum grade across the footpath area and the first 6m from the property boundary are to have a maximum grade of 1 in 20. The existing footpath in Rosamond St is to be removed and reconstructed so as to achieve a maximum grade across the footpath of 4%.

101. Construction of the proposed access driveway from Rosamond St in accordance with the following requirements:-
- (a) Construction of an Asphaltic concrete (AC) sealed driveway from the property boundary to the entry of the underground carpark. The AC seal shall also be extended through the roundabout in front of the Mt Wilga house. The pavement shall be designed and constructed in accordance with Council's Civil Works Specification.
- (b) The pavement width shall be a minimum width of 6.5 metres in accordance with AS 2890.2 to allow vehicles, including service vehicles, to pass.
- (c) The pavement shall have a kerb to one side and a one-way crossfall with a minimum gradient of 2%.
- (d) Construction of retaining walls, as required to support the carriageway and the compaction of all filled batters to the requirements of a practising geotechnical engineer.
- (e) The provision of a safety rail at appropriate locations along the carriageway where there is a level difference between the driveway and the adjoining ground level of more than 300 mm or a 1:4 batter cannot be achieved.

102. The vehicular crossing within Manor Rd shall be designed and constructed in accordance with Council's Civil Works - Design and Construction Specification 1999 and AS 2890.1.

103. The concrete vehicular crossing within Manor Rd shall be a minimum of 150mm in depth reinforced with F72 steel reinforcing fabric.

104. The vehicular crossing shall have a minimum width of 5.5m at the property boundary alignment.

105. Construction of the access driveway in Manor Rd in accordance with the following requirements:-

- (a) Construction of 150mm thick reinforced concrete pavement with 150/100 mm sub base.
 - (b) The pavement width shall be a minimum width of 5.5 metres.
 - (c) The pavement shall have a kerb to one side and a one-way crossfall with a minimum gradient of 2%.
106. Any redundant gutter and/or footway crossing must be replaced with integral kerb and gutter. The footway area must be restored by turfing. Works are to be completed prior to occupancy or the issue of a subdivision certificate, whichever occurs first.

Access to Public Transport - Footpath improvements for disabled access

107. A 1.2m wide footpath and pram ramp/s are to be constructed to provide a continuous accessible path from the site to the bus stop at the corner of Carrington Street and Rosamond Street. This will require but is not limited to new footpath works adjacent to No.50 Rosamond Street and No.35 Rosamond Street, and the extension of the footpath to the kerb at Carrington Street. Detailed plans of the upgrading work are to be provided to Hornsby Shire Council prior to the issuance of a construction certificate. This is to include certification from an access consultant that the overall average gradients comply with Clause 26(3) of SEPP (Housing for Seniors or People with a Disability) 2004. These works are to be designed and constructed in accordance with Hornsby Shire Council's Civil Works Specification. An occupation certificate is not to be issued until these works are completed.

Drainage

108. Stormwater drainage from the site shall be designed and constructed to satisfactorily drain rainfall intensities for an average recurrence interval of 20 years. The design shall:-
- (a) Be in accordance with Hornsby Shire Council Civil Works – Design Specification 1999 and generally in accordance with plans prepared by the Meinhardt Group Job No 9367 revision 08. The designing engineer is to complete and submit to Hornsby Shire Council the Design Certification Report as required in the Hornsby Shire Council Civil Works – Design Specification 1999
 - (b) Provide for drainage discharge to the existing drainage system in Manor Rd.
 - (c) Ensure that the development, either during construction or upon completion, does not impede or divert natural surface water runoff so as to cause a nuisance to adjoining properties.
 - (d) Ensure that the stormwater drainage pipes are located under the existing kerb and gutter in accordance with standard practise.
 - (e) Provide for a minimum pipe size of 375mm. The bedding material for the bed, haunch, overlay and side zones shall be 20mm aggregate and covered with geotextile fabric.
 - (f) The existing kerb and gutter above the proposed pipeline within Manor Rd is to be removed and reconstructed in accordance with the Hornsby Shire Council's Civil works Specification and all areas, including private properties are to be restored to as near as practicable to the pre construction condition following completion of the works.

- (g) All works within the open channel section of the Drainage Easement are to be constructed in accordance with Hornsby Shire Council's Sustainable Water DCP.
 - (h) Adequate notice of the intention to commence works is to be given to all affected residents. Details of this notice are to be given to Hornsby Shire Council.
 - (i) All stormwater drainage works within the public road reserve and private properties other than the subject property are to be inspected by Hornsby Shire Council at the "Hold Points" as detailed in the Hornsby Shire council's Civil Works Specification.
 - (j) A Traffic Control Plan is to be prepared and submitted with the engineering plans addressing traffic control within Manor Rd.
 - (k) It should be noted that no works are to commence within the road reserve of Manor Rd or the Council's drainage without the written approval of Hornsby Shire Council.
109. The drainage system is to be constructed with an on-site-detention system, having a capacity of not less than 250m³ and a maximum discharge, when full, of 520 l/s. The system shall be designed by a chartered professional civil engineer to the following requirements:
- * A surcharge/inspection grate is to be located directly above the outlet.
 - * Stormwater discharge from the detention system is to be controlled via a one metre length of pipe not less than 50mm diameter discharging into a larger diameter pipe capable of carrying the design flow to Council's gutter/stormwater pit.
 - * Where the on-site detention system is proposed under the vehicular driveway, the engineer is to certify that the detention tank is structurally capable of withstanding the maximum anticipated traffic loads.
 - * An overland flowpath is to be provided to allow undetained flows to flow directly to Manor Rd.
 - * A minimum height of 2.0m is to be provided above the inspection grates to allow access into the detention tank for maintenance and inspection purposes.
110. A compliance certificate is to be submitted to Council which includes work-as-executed details of the on-site-detention system prepared by a chartered professional engineer/registered surveyor verifying that the required storage and discharge volumes have been constructed in accordance with the design requirements. The details are to show the invert levels of the on system as well as the pipe sizes and grades. Any variations to approved plans must be shown in red and supported by calculations.

Additional Conditions Applying to Stage E

Roadworks

111. The existing kerb, gutter and footpath across the frontage of the site in Manor Rd and Rosamond Rd are to be removed and reconstructed. The footpath is to be lowered so that a uniform grade of 4% from the top of kerb to the boundary is achieved. The

existing road pavement is to be saw cut a minimum of 300mm from the existing edge of bitumen and reconstructed. The work is to be completed prior to the issue of the Occupation Certificate for Stage E.

112. A concrete median island is to be designed and constructed in Galston Road at the intersection with Carrington St to prohibit right turn movements into and out of Carrington St. The design of the median island is to be carried out in accordance with the RTA's Road design Guide and is to be approved by the RTA prior to the issue of an approval by Hornsby Shire Council under section 138 of the Roads Act and prior to the issue of a Construction Certificate for this work. The work is to be completed prior to the issue of the Occupation Certificate for Stage E.

Footpaths

113. A 1.2m wide concrete footpath shall be designed and constructed across the frontage of the site in manor Rd and Rosamond St in accordance with Hornsby Shire Council Civil Works Design and Construction Specification 1999. The work is to be completed prior to the issue of the Occupation Certificate for Stage E.

ADVICES

- (i). There is no new fencing proposed or approved along Manor Road or the western property boundary. Any such works is to be the subject of a separate application to the Council.

Note: Fencing is not exempt development pursuant to Council's Exempt and Complying Development DCP as the property is a heritage item pursuant to Schedule D of the Hornsby Shire LEP 1994.

ROD PICKLES
Manager - Assessment Team 2
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Locality Plan
2. Site Plan
3. Landscape Plans
4. Floor Plans
5. Shadow Diagrams
6. Mt Wilga House Plans

File Reference: DA/928/2007

Document Number: D01011053

ITEM 3

**4 DEVELOPMENT APPLICATION - SECTION 96(2) - TO REPLACE SELF CARE UNITS WITH HOSTEL UNITS
301 - 305 GALSTON ROAD, GALSON**

Development Application No: DA/276/1983/N

Description of Proposal: Section 96(2) modification application to approved Wing 3 of Stage 2 works within the Rowland Retirement Village by replacing the self contained units with hostel units and nursing home facilities including minor external modifications

Property Description: Lot 1 and Lot 2 DP 713848, 301 - 305 Galston Road, Galston

Applicant: Humel Architects Pty Ltd

Owner: RSL Veterans Retirement Villages (NSW State Branch)

Statutory Provisions: Hornsby Shire LEP 1994 Rural BA (Small Holdings – Agricultural Landscapes) and Part Rural BR (Small Holdings – Rural Landscapes)

Estimated Value: \$ 7,853,121

Ward: A

RECOMMENDATION

THAT Development Application No. 276/1983/N at Lot 1 and Lot 2 DP 713848, (Nos. 301 - 305) Galston Road, Galston be approved subject to conditions of consent detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. The application seeks to modify approved Wing 3 within the Rowland Retirement Village including replacement of the self care units to hostel units.
2. The proposal complies with the provisions Hornsby Shire Local Environmental Plan 1994 (HSLEP) and the Rural Lands Development Control Plan (RLDCP).
3. Two submissions have been received in respect of the application.
4. It is recommended that the application be approved.

HISTORY OF THE SITE

- On 15 December 1983, Council approved DA 276/83 for a retirement village comprising 200 self contained units, 60 hostel serviced units and 30-40 bed nursing home principally on Lot 1 DP 713848. The works were proposed in the following stages:
- Stage 1: Consisting of up to 30 units and 35 hostel units.
- Stage 2: Consisting of the remainder of the self care units and the community centre.
- Stage 3: Development of a further sub-stage subject to redesign.
- Between 1984 and 1998, Amendments A – M to DA/276/1983 were approved by Council. The amendments related to minor alterations to the retirement village and did not propose any modifications to Wing 3.
- On 3 July 2002, Council resolved to approve DA/2607/2001 for the addition of 25 single storeys attached and detached dwellings for aged and differently abled persons as a part of Stage 3 works.

THE SITE

- The site consists of Lots 1 & 2 in DP 713848, has an area of 22.49 hectares and is located on the southern side of Galston Road.
- Lot 1 has an area of 7.7 hectares. It experiences an average grade of 1 in 10 to the centre of the site from the western half and is relatively level in the eastern half. The lot is occupied by “Rowland Village”, an aged and differently abled housing facility, which includes self-contained, serviced/hostel and nursing home accommodation as well as administration, support and recreational facilities.
- The current improvements on lot 1 involve the following:
- 135 attached and detached self-care dwellings with 192 bedrooms, constructed as a part of Stage 1 and Stage 3 of the development.
- 38 units with associated car parking including garages, dining rooms, kitchen and lounge area, constructed in wings 1 and 2 of the Rowland Court as a part of Stage 1 works.
- The community centre.
- The site includes several sheds for storage purposes and an existing on-site sewage management system.
- A vacant area currently exists to the south of Wing 2 and would be the location for the future approved building envelope of Wing 3 (subject of the proposed modifications). The current approved building comprises 28 small self contained one bedroom units on Level 1 and 2 and 29 hostel rooms on Level 3.

Lot 2 within the site comprises native bushland, a wastewater disposal system and a golf course.

- The edge of the proposed development area contains remnant Sydney Turpentine Ironbark Forest (STIF), an Endangered Ecological Community listed under the *Threatened Species Conservation Act 1995*. A major portion of the understorey has been modified through mowing. The approved building envelope for proposed Wing 3 is located in close proximity to a ‘classified’ creek.

The development area is located within the site and is not directly visible from the adjoining properties. The adjoining property at 311-313 Galston Road contains a significant remnant of Blue Gum High Forest, a Critically Endangered Ecological Community listed under the *Threatened Species Conservation Act 1995*. This remnant vegetation is located to the west of the proposed development area.

The site is located in a rural zone and is surrounded by agricultural land, plant nurseries, low density residential developments and the Berowra Valley Regional Park to the south.

THE PROPOSAL

- The proposal seeks approval to modify the approved arrangements of self-care units and hostel rooms within Wing 3. The total number of hostel units in the village would increase from 60 to 66 as a result of the proposed modifications to Wing 3.
- The applicant indicates that under the current circumstances, it is inappropriate to construct a mix of self-care and hostel units within one building. Therefore the development is proposed to be modified to include only hostel units within Wing 3. The proposed hostel units would be larger than the approved hostel units (26.4 sqm) and include all the supporting services resulting in better amenity provisions.
- The total population of the retirement village would not change as a result of the proposed modifications. No change is proposed to the approved floor space or the building footprint. There would be an addition of 6 hostel units and the reduction of 28 self care units and 6 nursing home beds as a result of the proposal.
- The following table sets out details of the proposed modifications:

Level 1	<ul style="list-style-type: none"> • Increase the number of car spaces within the external car parking area from 12 to 14 • Additional and independent vehicular access to the building from the main internal access to the village • Deletion of 13 one-bedroom self contained aged persons units • Provision of 20 hostel units each containing a bed sitting room, ensuite and balcony • Shared dining room, balcony and lounge room
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	<ul style="list-style-type: none"> • Entry foyer, reception, manager's office, nurse's station, storerooms and amenities
Level 2	<ul style="list-style-type: none"> • Deletion of 15 one bedroom self contained aged persons' units • Provision of 24 hostel units each containing a bed sitting room, en-suite and a balcony • Shared dining room and two shared lounge rooms with adjoining balconies • Staff room, nurse's station, storerooms and amenities • Proposed hallway connection to existing Wing 2 building would be deleted. • The access to Wing 2 is proposed via the shared lounge/dining area
Level 3	<ul style="list-style-type: none"> • Deletion of the laundry and reduction in the number of hostel units from 29 to 22 • Shared dining room and two shared lounge rooms with adjoining balconies • Nurse's station, storerooms and amenities • Proposed hallway connection to existing Wing 2 to be deleted and new access proposed via the shared lounge/dining area.
Outdoor areas	<ul style="list-style-type: none"> • An amended landscape plan in accordance with the conditions of the original development consent in compliance with the bushfire requirements.
External modifications	<ul style="list-style-type: none"> • The proposed external modifications are primarily cosmetic and reflect the internal alterations.

ASSESSMENT

The development application has been assessed having regard to the '2005 City of Cities Metropolitan Strategy', the 'North Subregion (Draft) Subregional Strategy' and the matters for consideration prescribed under Section 79C of the *Environmental Planning and*

Assessment Act 1979 (the Act). Subsequently, the following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Metropolitan Strategy – (Draft) North Subregional Strategy

The Metropolitan Strategy is a broad framework to secure Sydney's place in the global economy by promoting and managing growth. It outlines a vision for Sydney to 2031; the challenges faced, and the directions to follow to address these challenges and achieve the vision. The draft North Subregional Strategy acts as a framework for Council in the preparation of a new Principal LEP by 2011.

The draft Subregional Strategy sets the following targets for the Hornsby LGA by 2031:

- Employment capacity to increase by 9,000 jobs; and
- Housing stock to increase by 11,000 dwellings.

The proposed development would be consistent with the draft Strategy insofar as improving housing choice for the seniors and differently abled persons.

2. STATUTORY CONTROLS

Section 79C(1)(a) requires Council to consider any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and other prescribed matters.

2.1 Environmental Planning and Assessment Act, 1979

In considering the application, Council must be satisfied that the development to which the consent as modified relates is substantially the same development as originally approved.

The proposal seeks approval to alter the mix of units and replace the self-care units within Wing 3 with hostel units to suit the current needs of the retirement village. The external modifications reflect the internal changes and the associated facilities are required to cater to the hostel units, not previously incorporated in the development. In that respect, it is considered that the proposal as amended is substantially the same as the development originally approved.

2.2 Hornsby Local Environmental Plan 1994

The site is zoned part Rural BA (Small Holdings – Agricultural Landscapes) and part Rural BR (Small Holdings – Rural Landscapes). The proposed development is located on that portion of the site which is zoned Rural BA (Small Holdings – Agricultural Landscapes).

The objectives of the zone are:-

(a) *To restrain population growth, maintain rural character of the area and ensure that existing or potentially productive agricultural land is preserved.*

(b) *to promote agricultural use of the land and provide of a range of compatible land uses which maintain the agricultural and rural environment of the area.*

(c) to ensure development is carried out in a manner that improves the environmental qualities, and is within the servicing capacity, of the area.

- The use is defined under the LEP as ‘Housing for Aged or Differently Abled Persons’ and is prohibited in the Rural BA zone. However, the use is permissible pursuant to Clause 106 of the Act given that the site benefits from existing use rights.
- The development was originally approved in accordance with *State Environmental Planning Policy No. 5 – Housing for Aged or Disabled Persons*. At that time, SEPP 5 made permissible the subject development.
- The modification would involve the replacement of 28 self-care units by hostel units. Consequently, the proposed modification does not substantially modify the population or character of the Rowland Village and is within the environmental capacity of the site.
- The site has not been put to an agricultural land use for a significant period as Rowland Village has developed as the dominant land use. Since existing agricultural potential is negligible, the current modifications will not have any adverse impact.

2.3 State Environmental Planning Policy (Housing for the Seniors and People with Disability) 2004 (SEPP)

The application has been assessed having regard to the requirements of State Environmental Planning Policy (Housing for the Seniors and People with Disability) 2004. Pursuant to Clause 4 of the SEPP, the site does not adjoin land zoned primarily for urban purposes. Therefore, the SEPP does not have direct application to the development.

Notwithstanding the above, the development has been assessed against the SEPP to determine whether it meets ‘best practice’ standards for this type of development.

State Environmental Planning Policy (Housing for Seniors and People with Disability) 2004			
Control	Proposal	Requirement	Compliance
Floor Area	unchanged	N/A	N/A
Height	unchanged	N/A	N/A
Car parking	14 spaces	18 spaces	No
Site cover	unchanged	N/A	N/A
Landscaping	>1650 m ²	25 m ² /hostel bed	Yes

As detailed in the above table, the proposed development does not comply with the prescribed number of car space requirements for this type of development. The matters of non-compliance are detailed below, as well as a brief discussion on compliance with relevant performance standards.

2.3.1 Car Parking

Under the SEPP, the proposed modifications would require 18 car spaces. The proposal includes 14 spaces. The application has been supported by a Traffic Impact Study. An assessment of the parking provisions for the proposal concludes that there is sufficient space within the site to readily accommodate the shortfall in parking spaces having regard to the size of the lot and the number of car parking spaces across the whole site.

2.3.2 Accessibility and useability for hostels and self-contained dwellings

The application includes a 'Statement for Disability Access Provisions' addressing relevant matters within the SEPP. A condition has been recommended to ensure compliance with these provisions.

2.4 State Environmental Planning Policy No. 44 - Koala Habitat Protection

- The provisions of SEPP 44 apply to the development as the site is greater than one hectare in size. The proposed modifications are within the approved building footprint and would not result in the removal of trees which represent a potential or core koala habitat. Accordingly, no further consideration of this Policy is required.

2.5 Sydney Regional Environmental Plans No. 20 - Hawkesbury-Nepean River

- Council is required to consider the impact of all proposals located within the Hawkesbury-Nepean River Catchments having regard to water quality, urban and rural residential development, scenic quality, environmental heritage and recreation and tourism.
- The proposal is contained within the approved building footprint. An assessment of the proposal with regard to water quality and water quantity has been undertaken and considered satisfactory. The impact of the proposed modifications on the riparian zone of the classified creek is discussed in a later section of this report.

2.6 Rural Lands Development Control Plan

Council's Rural Lands Development Control Plan does not include any prescriptive measures relevant to the use of the site for Seniors Living. The Rural Lands DCP requires a minimum 15 metres setback of all structures from property boundaries. The modifications would be contained within the approved building envelope and comply with the setback requirements of the Rural Lands DCP.

2.7 Sustainable Waters Development Control Plan

- The Sustainable Waters Development Control Plan applies to the proposed development. The relevant issues have been addressed under the requirements of SREP 20.

3. ENVIRONMENTAL IMPACTS

Section 79C(1)(b) of the Act requires Council to consider "*the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*".

3.1 Natural Environment

- The proposed modifications are contained within the approved building footprint and do not require further removal of trees or other vegetation. Due to an already approved building envelope containing the current development, it is likely that most of the remnant vegetation within the building footprint would be removed or adversely affected by the proposal.

3.1.1 Asset Protection Zones

The submitted landscape plan indicates that the bushland to the south and south-east of the development area, on the opposite side of the internal road would be part of the Asset Protection Zone for the proposed development due to *Planning for Bushfire Protection 2006* requirements. This bushland is an intact remnant of Sydney Turpentine Ironbark Forest, which has been mapped by Council and extends along the watercourse and within other areas of the retirement village. The proposed Inner Protection Area for the Asset Protection Zones as recommended by the NSW Rural Fire Service would impact on 10m of the bushland edge and road batter. The core area of the Sydney Turpentine Ironbark Forest remnant would be minimally impacted on by bushfire protection measures and would be managed in accordance with an approved Integrated Vegetation Management Plan.

3.1.2 Ecological Impacts

The proposed modifications and the Asset Protection Zone would not have a significant impact on the Sydney Turpentine Ironbark Forest listed under the *Threatened Species Conservation Act 1995*, subject to conditions requiring the preparation of an Integrated Vegetation Management Plan.

The proposed modifications would not change the nature or functioning of the approved on-site waste water irrigation system. The development would not increase the impact on the nearby remnant Sydney Turpentine Ironbark Forest at the rear of the retirement village.

3.2 Built Environment

The proposed modifications are internal and suit the current requirements of the retirement village. The corresponding external modifications reflect the internal alterations and enhance the appearance of the building by providing a contemporary elevation.

The proposal does not involve alterations to the bulk and scale or height of the approved building and would not have any adverse impact on the built environment of the retirement village.

3.3 Social Impacts

The provision of the hostel units would cater to the current social needs of the retirement village by providing opportunities for housing choices as the existing wings currently accommodate self-care dwellings. This is consistent with the North Subregion (Draft) Subregional Strategy.

4 SITE SUITABILITY

Section 79C(1)(c) of the Act requires Council to consider “*the suitability of the site for the development*”.

The proposed modification relate to an existing retirement village. Therefore the site is suitable for the proposed modifications.

5. PUBLIC PARTICIPATION

Section 79C(1)(d) of the Act requires Council to consider “*any submissions made in accordance with this Act*”.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified in the newspaper between 15 January 2008 and 29 January 2008 in accordance with Council’s Notification and Exhibition Development Control Plan. Council received two submissions in response to the notification. One submission did not provide address details. Consequently, it is not known whether that person owns or resides on land in close proximity to the subject site. The other submission was received by a person who does own or reside on property within the locality.

Both submissions objected to the development, generally on the following grounds:

- The development application is not a Section 96 modification as the development is not substantially the same as originally approved in 1983.
- The current application does not clearly identify the existing and proposed capacity of the village and therefore does not specify whether the proposal will result in an increase in the total population.
- The Planning Report for DA/2607/2001 (addition of 25 single storeys attached and detached dwellings for aged and differently abled persons) described that the development was in three stages. The current application indicates that there are two stages to the development. The statements are contradictory.
- The current application indicates that there are three stages of the development and the current modifications relate to Stage 2 of the building works.
- No DA notification sign has been erected in front of the site
- The element “Section 96(2) Applications” within Council’s Notification and Exhibition Development Control Plan does not require the erection of signs in front of sites. The development complies with this requirement.
- The residents of Rowland Village have not been notified by Council.
- Council has received owner’s consent from the Rowland Retirement Village.
- Whether it is possible to amend a development consent issued 25 years ago, via a section 96 modification application
- The Act does not limit the time in which the lodgement of an application under Section 96 is permissible.

- It is unclear whether an on site waste management system was installed for DA/2607/2001.
- It was also noted in the report that 3.5 ha of irrigation area will be required and no land will be available for any further disposal system installation. Whether the above indicate that the sewage disposal works required in relation to the construction of the villas in 2003/2004 was never installed.
- An audit should be carried out regarding the existing system and the proposed population as a result of the modifications to assess the impact on the effluent disposal system

The above objections are not relevant to the current application and relate to development consent DA/2607/2001.

The application includes a detailed report on the existing on-site sewage management system and proposed upgrade. A scaled plan indicating that 2.6 hectares of irrigation area can be provided on site taking into account a minimum buffer distance of 5 metres from all bushland has been previously submitted and considered by Council.

An assessment of the on-site sewage management report considering the proposed modification and the existing population of the site have been conducted and the proposed up-grade works are considered satisfactory.

5.2 Public Agencies

The application was referred to the following Agencies for comment:

5.2.1 Rural Fire Service

- The original proposal was approved prior to the existence of the *Rural Fires Act 1997* and therefore the provisions of Section 100B of the Act did not apply.
- However, the current modification application has been referred to *Rural Fire Service* (RFS) for comment. A bushfire safety authority was issued under the *Rural Fires Act 1997* and the *Planning for Bushfire Protection 2006* subject to conditions regarding Asset Protection Zones taking into consideration the need to protect the STIF.
- Although the original proposal was not an *Integrated Development* under the *Rural Fires Act 1997*, the current Section 96(2) modification proposes changes to the nature of use of the site. It is assessed that the modification would result in a better outcome for Wing 3 and the overall development in relation to future bushfire safety and environment protection. Therefore the RFS conditions are considered relevant to the Section 96 application and are recommended, should the application be approved.

5.2.2 Department of Water and Energy

- The proposed building works of are located within 40 m of a classified creek. The Department of Water and Energy has advised that the application does not result in a modified building footprint. Therefore further assessment of the proposal is not required under the *Water Management Act 2000*.

6. THE PUBLIC INTEREST

Section 79C(1)(e) of the Act requires Council to consider “*the public interest*”.

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

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

7. CONCLUSION

The proposed modification to DA/276/1983 is substantially the same as the originally approved development. The proposal would not result in an overall increase of the density or population of the retirement village. The proposed modifications are restricted within the building footprint and would not result in a negative impact on the natural or built environment. The application is assessed as satisfactory against the provisions of Section 79C of the Act, SREP 20, HSLEP and the Rural Lands DCP.

Two submissions were received by Council as a result of the exhibition process. Community submissions have been addressed in the report and issues of concern can be overcome through relevant conditions.

Accordingly, it is recommended that Council approves the development subject to the conditions held at Schedule 1 of this report.

SCHEDULE 1**Amendment to the description of the proposal:**

- *“A Retirement complex consisting up to 200 self contained aged persons units, 66 hostel type service units and 30 – 34 bed nursing home”*

Addition of the following conditions:**Approved Plans and Supporting Documentation (applicable to all stages)**

11. The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council’s stamp, except where amended by other conditions of this consent:

<i>Plan No.</i>	<i>Drawn by</i>	<i>Dated</i>
General Notes and site plan Dwg No. 100 Rev A	Humel Architects Pty Ltd	December 2007
Survey Plan	Barry Hunt Associates	15/05/2007
Soil Erosion and Sediment Control Details Dwg No. 101 Rev A	Humel Architects Pty Ltd	December 2007
Site floor Plan Dwg No. 103 Rev A	Humel Architects Pty Ltd	December 2007
Site floor Plan Dwg No. 104 Rev A	Humel Architects Pty Ltd	December 2007
Site floor Plan Dwg No. 105 Rev A	Humel Architects Pty Ltd	December 2007
Site floor Plan Dwg No. 106 Rev A	Humel Architects Pty Ltd	December 2007
Foundation Level Plan Dwg No. 108 Rev A	Humel Architects Pty Ltd	December 2007
Level 1 floor Plan PlanDwg No. 109 Rev A	Humel Architects Pty Ltd	December 2007
Level 2 floor Plan PlanDwg No. 110 Rev A	Humel Architects Pty Ltd	December 2007
Level 3 floor Plan PlanDwg No. 111 Rev A	Humel Architects Pty Ltd	December 2007
Roof Plan Plan Dwg No. 112 Rev A	Humel Architects Pty Ltd	December 2007
Elevations North and South and section AA Dwg No 113 Rev A	Humel Architects Pty Ltd	December 2007
Elevations East and West and section B-B Dwg No. 114 Rev-A	Humel Architects Pty Ltd	December 2007
Typical hostel room details Dwg. No 118 Rev-A	Humel Architects Pty Ltd	December 2007
Stormwater Drainage Plans 207079-H01	Niven Donnelly and Partners Pty Ltd	7/02/2007
Stormwater Drainage Plans 207079-H02	Niven Donnelly and Partners Pty Ltd	7/02/2007
Landscape Plan 537.01 rev C	Tramonte Jensen	6/08/2008
Landscape Plan 537.02	Tramonte Jensen	4/12/2007
Landscape Plan 537.03	Tramonte Jensen	4/12/2007
Schedule of Finishes	Humel Architects Pty Ltd	18/09/2007
Statement of Disability Access Provisions	Disability Access Consultants Pty Ltd	10/12/2007

Building Code of Australia

12. All building work must be carried out in accordance with the requirements of the *Building Code of Australia*.
13. Should there be any alternative solutions listed as Category 2 Fire Safety Provisions and outlined in the Environmental Planning and Assessment Regulation 2000, a fire engineering report should be forwarded to the Brigades for comment under Clause 144 of the Environmental Planning and Assessment Regulation 2000.
14. The modified development approved under DA/276/1983/N shall result in the total number of units on site being in accordance with the following:
 - The total number of self-care units within the site will not exceed 200
 - The total number of hostels units within the site will not exceed 66
 - The total number of nursing home beds provided on site will not exceed 34
15. The modified development approved under DA/276/1983/M shall to comply with the Statement of Disability Provisions prepared by Disability Access Consultants Pty Limited dated 10 December 2007. The details and recommendations contained within the report must be incorporated into the amended construction certificate plans.
16. An Integrated Vegetation Management Plan that incorporates the requirements of both bushfire protection and the conservation of the endangered Sydney Turpentine Ironbark Forest is to be jointly prepared by a qualified bushfire management expert and a qualified ecological/bush regeneration expert to the satisfaction of Council and the Rural Fire Service. The plan shall be submitted to both Council and the Rural Fire Service for approval prior to the accredited certifier issuing a construction certificate. The integrated plan shall include the following.
 - a) Outline management strategies to maintain the Inner Protection Area extending 10 metres into the Sydney Turpentine Ironbark Forest from the road. No clearing or disturbance is to occur within 5 metres of the watercourse, except for weed removal. Significant indigenous trees should be retained;
 - b) Outline management strategies to maintain the Outer Protection Area in a way that does not degrade the conservation value of the Sydney Turpentine Ironbark Forest remnant. The following management strategies are to be included:
 - (i) Undertake hazard reduction burns in accordance with the ecological fire regime for Sydney Turpentine Ironbark Forest;
 - (ii) Target removal of weeds and exotic vegetation and dense stands of *Pittosporum* (*Pittosporum undulatum*). Native vegetation should be retained; and
 - (iii) Hand removal of accumulated ground fuels.
 - c) Provide strategies for the on-going management of the Sydney Turpentine Ironbark Forest including weed removal using qualified and experienced bush regenerator.
 - d) Provide suitable conservation and protection measures to ensure the long-term conservation of the Sydney Turpentine Ironbark Forest and native flora and fauna habitat.

- e) Provide suitable plan showing the Inner and Outer Protection Areas and the existing and approved buildings.
17. To protect the adjoining Sydney Turpentine Ironbark Forest remnants including the stand of trees east of the building area and the bushland along the watercourse on the opposite side of the road from potential damage during construction works the applicant is to ensure that a temporary protective 1.5 to 1.8 metre high fence shall be erected along the boundary of the development site, prior to commencement of works to protect the Sydney Turpentine Ironbark Forest remnant.
18. To protect the bushland and retained trees from the effects of building materials, sedimentation and erosion from development sites the applicant will ensure that no filling of soil and no stockpiling of building materials is to occur within 4 metres of the adjacent bushland or retained trees for the duration of the on-site works.
19. No machines or heavy vehicle is permitted within the retained stand of Sydney Turpentine Ironbark Forest trees on the eastern side of the approved development footprint.
20. To ensure that the Asset Protection Zone requiring treatment is clearly defined as an area separate to retained native vegetation, the boundary of the Asset Protection Zone for bushfire protection shall be marked with permanent fire resistant stakes to prevent the on-going fuel reduction activities from encroaching into the core area of the Sydney Turpentine Ironbark Forest remnant and the riparian zone along the watercourse.
21. To ensure that invasive plants and noxious weeds are effectively controlled from spreading into the adjoining Sydney Turpentine Ironbark Forest remnant all environmental and noxious weeds including are to be removed and suppressed using an appropriate bush regeneration methods. Weeds within the approved Asset Protection Zones shall be controlled in accordance with the approved Integrated Vegetation Management Plan.
22. Landscaping is to be primarily composed of locally occurring native species, as listed in the Hornsby Council planting guide, *Indigenous Plants for the Bushland Shire*, available at Council or on Council's web site: www.hornsby.nsw.gov.au. Landscape plants must be non-invasive and not have the potential to spread into the surrounding bushland.
23. To compensate for the removal of Sydney Turpentine Ironbark Forest trees as a result of the development the applicant shall ensure that seed is collected from all indigenous trees within the approved building footprint prior to their removal. This shall be undertaken by a qualified arborist or native seed collecting company engaged by the Applicant. The seed shall be donated to the Hornsby Shire Community Nursery located at Pennant Hills, via Council's Bushland and Biodiversity Management Team, for propagation and future replanting within the Roland Retirement Village and in the local area. Documentation demonstrating this commitment shall be submitted to Council's Bushland and Biodiversity Management Team for approval prior to the issue of the amended Construction Certificate.
24. A minimum five (5) metre setback must be provided from all wastewater irrigation disposal areas to bushland.

25. All wastewater generated by the proposed development must be treated and disposed of in accordance with the site capability and system design report prepared by Cardno, Version 2, Lisle Butler dated 15 June 2008 and amended plans for Proposed Irrigation Fields prepared by Cardno dated 8 August 2008.
26. The applicant shall protect overland flow paths, drains, adjoining land and downstream water quality from sedimentation. Accordingly, sediment and erosion control measures must be implemented prior to excavation, and maintained during construction.
27. The following sediment control measures are required to be provided in conjunction with the Site Plan and Soil Erosion and Sediment Control Details prepared by Humel Architects Pty Ltd dated December 2007:

All runoff and erosion controls are to be installed before any works are carried out at the site.

- a) All contaminated surface waters and debris from the site must be screened, collected and pollutants captured within the site.
- b) Stormwater kerb inlets and drains receiving stormwater must be protected at all times during work on site.
- c) Movement of water must be controlled by diverting upslope clean surface runoff (via diversion drains and sediment fencing) around the disturbed areas.
- d) Contamination of surface waters on downslope lands must be mitigated by installing sediment control fences downslope of the disturbed areas to capture sediment and debris escaping from the site.
- e) Geofabric sediment fencing must be installed parallel to the proposed works or along the natural contours of the site.
- f) Sediment fencing must be secured by post (where metal star pickets are used, plastic safety caps shall be used) at two-metre intervals with the geotextile fabric embedded at 200 mm in soil. One metre returns must be installed at twenty-metre intervals along the sediment fencing.
- g) Topsoil stockpiling stripped from the construction site must be diverted away from drainage lines and stormwater inlets, be suitably covered by impervious membrane material and screened by sediment fencing.
- h) Driveway access paths must be stabilised with needle-punched geotextile covered by a minimum 150mm thick layer of coarse gravel, aggregate, or recycled crushed concrete.
- i) Kerb inlet sediment traps are to be installed downslope of the site to facilitate the capture of sediment.
- j) Street sweeping must be undertaken as required along Galston Road during and after excavation and construction until the site is fully established.
- k) Turfed nature strip areas adjacent to the kerb of the lots under construction shall remain undisturbed during the construction phase.
- l) Erosion and sediment control measures must be maintained in good working order, and be repaired or replaced throughout the course of works on site.
- m) Sediment and erosion controls must be inspected weekly or after each storm event for litter, sediment, and organic waste accumulation. All sediment/debris shall be removed within two (2) working days or when reached 40% capacity.
- n) Disturbed areas must be rehabilitated and landscaped with preferably indigenous plant species or other suitable approved stabilising processes within fifteen days of the completion of works.

28. All landscape works shall also meet the minimum construction standards identified in the Hornsby Shire Council Landscape Code for Development Applications including the construction of mulched planter beds, planting of trees in minimum 25 litre pot sizes, shrubs in minimum 5 litre pot sizes and groundcovers in minimum 150mm pot sizes in the densities identified in the submitted planting specification.

Construction Certificate – Engineering Works

29. An amended construction certificate must be obtained from either Council or an Accredited Certifier. Engineering design plans and specifications are to be prepared by a chartered professional engineer for any proposed works. The plans and specifications are to be in accordance with development consent conditions, appropriate Australian standards, and applicable Council standards, in particular “Hornsby Shire Council Civil Works - Design and Construction Specification” Information required to be submitted with a construction certificate is as follows:
- a) copies of compliance certificates relied upon
 - b) Four (4) copies of the detailed engineering plans in accordance Hornsby Shire Council's Civil Works - Design Specification 1999. The detailed plans may include but are not limited to the earthworks, roadworks, road pavements, road furnishings, stormwater drainage, landscaping and erosion control works.
 - c) Hornsby Shire Council's approval for the existing roadworks and public drainage is required prior to the issuing of a construction certificate for these works.

Engineering Works

30. All engineering works required by this must be designed and undertaken in accordance with the relevant aspects of the following documents, except as otherwise authorised by this consent. A Construction Certificate is to be obtained prior to commencement of works.
- a) Australian Rainfall and Run-Off 1987
 - b) Hornsby Shire Council's Design and Construction Specifications 1999
31. A tree retention plan is to be included with any construction certificate application indicating:
- a) trees to be retained
 - b) all areas left undisturbed that are to be cordoned off from construction works.

Inspections - Engineering

32. All engineering work required by the consent must be inspected at the “hold points” as nominated in the Hornsby Shire Council Civil Works Construction Specifications 1999. Certificates shall be issued prior to occupancy confirming that the works comply with development consent, construction certificate and Hornsby Shire Council Civil Works - Design and Construction Specification.

Drainage

33. The drainage system to control all collected roof and surface stormwater shall be designed to satisfactorily drain rainfall intensities for an average recurrence interval of

20 years. The design shall:

- a) be in accordance with Hornsby Shire Council - Design Specification and Australian / New Zealand Standard 3500.3
 - b) all stormwater shall be discharged to the natural watercourse at the north eastern corner of the development in a manner that will not cause soil erosion (energy to be dissipated).
34. Proposed parking facilities shall be provided in accordance with the Australian Standard AS2890.1.

Sediment & Erosion Control

35. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site. The controls are to be designed and installed in accordance with the requirements of Landcom's "Managing Urban Stormwater: Soils and Construction", Volume 1, 4th Edition, March 2004, (the Blue Book), and Hornsby Shire Council's "Sustainable Water Best Practices" manual and shall:-
- be effectively maintained at all times during the course of works and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.
 - include adequate measures to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
 - ensure that no spoil or fill encroaches upon adjacent bushland for the duration of the works.
 - ensure disturbed areas are rehabilitated with indigenous plant species, landscaped and treated by approved methods of erosion mitigation such as, mulching, and revegetation with native grasses or other suitable stabilising processes within fifteen days of the completion of works.

Hours of Demolition Works

36. All demolition work is to be carried out in accordance with the applicable provisions of Australian Standard 2601-2001 'The Demolition of Structures'.
37. In order to maintain the amenity of adjoining properties, demolition works shall be restricted to between 7.00 am and 6.00 pm. No demolition works are to be undertaken on Saturdays, Sundays or Public Holidays. Plant, goods or materials shall not be delivered to the site outside the approved hours of site works unless written Council gives consent.

Demolition

38. All demolition work is to be carried out in accordance with the applicable provisions of Australian Standard 2601-2001 'The Demolition of Structures'.

Dust Control

39. Measures to prevent the emission of dust or other impurities into the surrounding environment are to be implemented during demolition works.

Signs for Construction Sites

40. On-site signage is required to clearly identify the PCA and the principal contractor (the coordinator of the building work) pursuant to the *Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003*, s157(1)(c1), Cl 98A, 136C & 227A.

Hours of Construction

41. In order to maintain the amenity of adjoining properties, site works shall be restricted to between 7.00 am and 6.00 pm, Monday to Friday and 8.00 am to 1.00 pm Saturday. No work shall be undertaken on Sundays or public holidays. Plant, goods or materials shall not be delivered to the site outside the approved hours of site works unless otherwise approved by Council.

Fire Safety Certificate – Final

42. In accordance with Part 9, Division 4 of the Environmental Planning & Assessment Regulation, 2000, the owner of the building must, on completion of the building, provide Council with a certificate in relation to each essential fire safety or other safety measure implemented in the building.

Fire Safety Statement - Annual

43. In accordance with Part 9, Division 5 of the Environmental Planning & Assessment Regulation, 2000, at least once in each period of 12 months after the date of the first fire safety certificate, the owner shall provide Council with a further certificate in relation to each essential service installed in the building.

Occupation

44. The approved development must not be occupied or the use must not commence until an occupation certificate has been issued in accordance with Sections 109C and 109H of the Environmental Planning & Assessment Act, 1979.

Asset Protection Zone

45. At the commencement of building works the following asset protection zones shall be provided and maintained as outlined in the Landscape Plan – bushfire protection prepared by Tramonte Jensen numbered 537.01 and dated 05.08.2008
- a) The inner protection area shall be 20 metres wide, restricted to within 10 metres of the road and taper to within 5 metres of the creek in the southwest and the community hall in the north
 - b) The outer protection area shall extend from the inner protection area, southwest for a distance of 45 metres, to the 5 metre buffer along the creek. From there it shall taper to within 20 metres of the road in line with the office car park to the north.

Design and Construction

46. New construction shall comply with Australian Standard AS3959-1999 '*Construction of buildings in bush fire-prone areas*' Level 1.

SCOTT PHILLIPS
Executive Manager
Planning Division

ROD PICKLES
Manager - Assessment Team 2
Planning Division

Attachments:

1. Locality Plan
2. Survey Plan
3. Floor Plans
4. Landscape Plans
5. Elevation Plans
6. Perspective Plan
7. Original Approved Plans

File Reference: DA/276/1983/N
Document Number: D01011097

**5 DEVELOPMENT APPLICATION FOR MOBILE PHONE TOWER AND
EQUIPMENT SHELTER
GALSTON ROAD, HORNSBY HEIGHTS**

Development Application No:	DA/1931/2007
Description of Proposal:	Proposed installation of a mobile phone tower and equipment shelter
Property Description:	Rofe Park, Lot 405-420, Lot 664, Lot 384, Lot 882 DP 752053, Lot 7063 DP 93660, Lot 23 DP 40000, Lot 7013 and 7014, DP 752048 (No. 100X) Galston Road, Hornsby Heights
Applicant:	Telstra
Owner:	Department of Lands
Statutory Provisions:	Hornsby Shire Local Environmental Plan 1994 Open Space A (Public Recreation – Local Open Space B (Public Recreation-District) State Environmental Planning Policy No 19 – Bushland in Urban areas State Environmental Planning Policy No 44 – Koala Habitat Sydney Regional Environmental Plan No. 20 (SREP 20) – Hawkesbury – Nepean River Telecommunications Act 1997 Telecommunications Code of Practice 1997 The Australian Communications Industry Forum Industry Code
Estimated Value:	\$250,000
Ward:	A

RECOMMENDATION

THAT Council approves DA/1931/2007 for the “Installation of a mobile phone tower and associated equipment shelter” at Rofe Park, 100X Galston Road, Hornsby Heights in accordance with the recommended conditions of consent prepared by *Natasha Mavlian Planning Consultant* held at Attachment 2 of this report.

EXECUTIVE SUMMARY

1. The application proposes the installation of a mobile phone tower and associated equipment shelter in Rofe Park, Galston Road, Hornsby Heights
2. Council considered the proposed development at its Planning Meeting on 20 August 2008 and resolved to defer the application pending the receipt of further information.

3. Council has been served with a Class 1 appeal to the Land and Environment Court due to Council's deemed refusal of the application.
4. Council has received advice from its solicitor detailing Council's prospects in the Class 1 appeal to the Court (held at Attachment 3).
5. It is recommended that Council approve the application in accordance with Executive Manager's Report No. PLN175/08 held at Attachment 1 to this report.

HISTORY OF THE APPLICATION

On 5 March 2008 Council's Planning Committee first considered the subject application and resolved:

"THAT Development Application No. 1931/2007 for the installation of a mobile phone tower and associated equipment shelter be deferred.

- *to allow the Applicant to provide a RADHAZ Report plus modelling presenting the radiation patterns with power density measurements from the modelling.*
- *Telstra organise advertised meetings for concerned residents to provide them with more information on this matter."*

In response to the resolution, additional information was submitted and community consultation undertaken by the applicant and Council.

On 2 July 2008 Council's Planning Committee again considered the subject application and resolved:

"THAT:

- A. *Development Application No. 1931/2007 for the installation of a mobile phone tower and associated equipment shelter be deferred for the applicant to:*
 1. *Consult with the community and the Council to consider a new site away from residential area providing minimal visual, social and economic impacts with emphasis on avoiding likely health impacts.*
 2. *Provide a detailed specification of the equipment to be installed and the infrastructure required to enable council to assess the impact on the selected site and surrounding area.*
 3. *Provide a detailed Radiation Hazard Report which consists of the combined result of the theoretical and ambient radiation levels. The report must provide the expected output power levels in Watts and dBm at worst case maximum power scenario.*
- B. *Possible reduced access by emergency services air craft be considered in any future recommendations to Council."*

On 20 August 2008 Council's Planning Committee considered the additional information with regard to the subject application and resolved:

“THAT Council:

- 1. Defer consideration of Report No. PLN175/08 to seek advice from the NSW Cancer Council, Pilots Association, Leichardt Municipal Council and the appropriate emergency services.*
- 2. Forward those communications to Council's legal representative seeking legal advice concerning Council's prospects in the event that the applicant lodges a Class 1 appeal in the Land and Environment Court.”*

In accordance with Council's resolution, letters were forwarded to the Cancer Council NSW and the *Australian and International Pilots Association (AIPA)* on 26 August 2008.

In addition, information has been obtained from the *Leichardt Municipal Council* regarding the outcome of a Land and Environment Court case concerning a mobile phone tower within that local government area. The details of the court case are briefly discussed below.

On 14 September 2007, Commissioner J Murrell handed down a judgment to the appeal by *Telstra Corporation Ltd* against the refusal of a development application for a proposed mobile network base station, by *Leichardt Municipal Council*. The works included the installation of a 24.85 m high nautical flagpole with 3 sectors of Telstra antennas housed internally within the flagpole, provision of a new flag, construction of a masonry wall and a new equipment shed.

The Assessment and the Findings by the Court included the following:

“On the basis of the site inspection and the evidence of the experts I have concluded that the proposed telecommunications facility should not be approved. In the context of the immediate visual catchment and area it will be a most prominent, dominant and overwhelming element and out of character.”

A copy of the full judgement is held at Attachment 4.

On 29 August Council was served with a Class 1 Appeal in the Land and Environment Court against Council's deemed refusal of the application.

On 15 September 2008, Council received a response from the AIPA. The Association advises:

“On the 26 August you wrote to the Australian & International Pilots Association in respect to a planned development at Rofe Park, Hornsby Heights. AIPA forwarded the letter to the AFAP (Australian Federation of Air Pilots) due to our membership coverage of helicopter pilots.

My reading of the plans is that: -

- The overall height increase of an obstruction is 3.3 m (approx 10 feet); and*
- The new tower will be relatively close to the position of the current pole, that is, it will only be approx 5 or 6m further south.*

I have been in touch with our helicopter pilot members with CHC Helicopters (Australia) in Sydney, who operate in the area. It is our opinion, based on the above assumptions,

that from a flight safety aspect there would be little difference to the obstructions, and safer helicopter operations could continue.”

A copy of the AIPA letter is held at Attachment 5.

On 29 September 2008, Council received advice from Council’s solicitor concerning Council’s prospects in respect of the forthcoming Class 1 appeal to the Land & Environment Court. The legal advice is held at Attachment 3 to this report.

At the date of the preparation of this report, Council has yet to receive a reply from the Cancer Council regarding this matter.

CONCLUSION

The proposal seeks approval for the installation of a mobile phone tower and associated equipment shelter at Rofe Park, Hornsby Heights.

Council has received 1021 objections in response to the notification of the proposal including petitions and proforma-letters.

Council has referred the application to an independent planning consultancy to carry out an assessment of the application and to consider public submissions. The assessment concludes that the application is worthy of Council’s development consent subject to relevant conditions.

Council has considered the proposed development on three previous occasions at its Planning Meetings and has most recently resolved to defer the application pending the receipt of further information.

Council has been served with a Class 1 appeal to the Land and Environment Court against Council’s deemed refusal of the application. Council’s solicitor has provided advice regarding Council’s prospects in any forthcoming Class 1 appeal to the Court.

It is recommended that Council approve the application in accordance with the recommended conditions of consent prepared by *Natasha Mavlian Planning Consultant* and held at Attachment 1 of this report.

ROD PICKLES
Manager - Assessment Team 2
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Executive Manager's Report No. PLN175/08 and Minutes
2. Natasha Mavlian Consultant's Report - Including recommended conditions of consent
3. Confidential Legal Advice
4. Land & Environment Court - Telstra v Leichhardt Municipal Council [2007] NSW LEC 571
5. Correspondence from Australian & International Pilots Association

File Reference: DA/1931/2007
Document Number: D01012997

**6 DEVELOPMENT APPLICATION - ALTERATIONS TO BUILDING AND
SUBDIVISION INTO 25 UNITS
293 -299 PENNANT HILLS ROAD THORNLEIGH**

Development Application No:	DA/930/2008
Description of Proposal:	Alterations to existing building to create separate tenancies & strata subdivision into 25 units.
Property Road Description:	Lot 27 DP 263535, Lot 1 DP 1122268 (Nos. 293-299) Pennant Hills Thornleigh
Applicant:	Meriton Apartments Pty Ltd
Owner:	Domain Apartments Pty Ltd
Statutory Provisions:	Hornsby Local Environmental Plan 2004 Business A (General) zone
Estimated Value:	\$953,055
Ward:	B

RECOMMENDATION

THAT Development Application No. 930/2008 at Lot 27, DP 263535, Lot 1 DP 1122268 Nos. 293-299 Pennant Hills Road Thornleigh be approved subject to conditions of consent detailed in Schedule 1.

EXECUTIVE SUMMARY

1. The application proposes alterations to two existing buildings to create separate tenancies and the strata subdivision of three existing buildings into 25 units.
3. The proposal complies with the provisions of the Hornsby Shire Local Environmental Plan 2004 (HSLEP) and the Business Lands Development Control Plan (BLDCP).
4. No written submissions have been received in respect of the application.
5. It is recommended that the application be approved subject to appropriate conditions

HISTORY OF THE SITE

293 Pennant Hills Road

On 7 February 1972, Approval was granted to erect the current building subject to conditions, including a condition that the applicant transfer to the Council a 40 ft by 75 ft area of land in the southern portion of the site, in the approximate location that the loading dock and accessway at 295-299 Pennant Hills Road is today. This dedication was for use as a Council owned, ten space, public carpark and was in lieu of the sixteen spaces required to fulfil the provisions of the (then) Car Parking Code. This carpark was removed by the construction approved by Development Consent No. 2187/2002 with the condition that ten public spaces be dedicated in the proposed underground carpark.

Between 1972 and 2008, Council's records indicate that the premises have since been used for multiple commercial and retail purposes including restaurants, a butchers shop, an amusement arcade and a hardware store.

295-299 Pennant Hills Road

On 24 March 2000, The property was sold by Council to Domain Apartments Pty Ltd.

On 4 June 2005, The Land and Environment Court approved DA/2187/2002 for the demolition of the existing structures on the site and erection of an "Officeworks" outlet, commercial offices and basement car parking. The approved office premises are the subject of this DA.

THE SITE

The site has an area of 2090.7m², is located on the eastern side of Pennant Hills Road and experiences an average grade of 8% to the west of the site.

The site is bordered by Pennant Hills Road to the west, Thornleigh Street to the south, Station Street to the north and residential houses to the east. The site has a main frontage to Pennant Hills Road of approximately 40m with vehicular access and underground parking available from an entrance on the Thornleigh Street frontage.

Three, two-storey buildings currently exist on the consolidated site. Of the buildings relevant to this proposal, the largest premise, fronting Pennant Hills Road, and the smallest premise, fronting Thornleigh Street, were constructed under the consent issued through Development Consent No. 2187/2002. The other premises, fronting Station Street, were constructed in the early 1970s and has been fully refurbished to match the new building.

The refurbished building (henceforth known as 'Building 1') is currently divided into eight tenancies with four on the ground floor and four on the first floor. The larger of the new buildings (henceforth known as 'Building 2') is currently divided into five tenancies with two at ground floor and three on the first floor. The smallest building (henceforth known as 'Building 3') consists of one office space on both the ground and first floors.

THE PROPOSAL

The proposal involves the strata title subdivision of the existing office buildings into twenty-five units as well as associated internal alterations. The alterations and strata subdivision would involve:

Building 1	Ground Floor	<ul style="list-style-type: none"> • Strata subdivision of the existing building into four separate tenancies
	First Floor	<ul style="list-style-type: none"> • Strata subdivision of the existing building into four separate tenancies
Building 2	Ground Floor	<ul style="list-style-type: none"> • Strata subdivision of the two existing units into three retail spaces with frontages to Pennant Hills Road and four office spaces on the eastern side of the buildings • Associated construction of non-structural internal walls to divide the new tenancies and other minor internal works and external windows for tenancies.
	First Floor	<ul style="list-style-type: none"> • The segregation and strata subdivision of the existing open floor area into nine separate tenancies. • Associated construction of non-structural internal walls in order to divide the new tenancies.
Building 3	Ground Floor	<ul style="list-style-type: none"> • Strata subdivision of the existing floor into one separate tenancy.
	First Floor	<ul style="list-style-type: none"> • Strata subdivision of the existing floor into one separate tenancy.

ASSESSMENT

The development application has been assessed having regard to the '2005 City of Cities Metropolitan Strategy', the 'North Subregion (Draft) Subregional Strategy' and the matters for consideration prescribed under Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act). Subsequently, the following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Metropolitan Strategy – (Draft) North Subregional Strategy

The Metropolitan Strategy is a broad framework to secure Sydney's place in the global economy by promoting and managing growth. It outlines a vision for Sydney to 2031; the challenges faced, and the directions to follow to address these challenges and achieve the vision. The draft North Subregional Strategy acts as a framework for Council in the preparation of a new Principal LEP by 2011.

The draft Subregional Strategy sets the following targets for the Hornsby LGA by 2031:

- Employment capacity to increase by 9,000 jobs; and
- Housing stock to increase by 11,000 dwellings.

The proposed development would be consistent with the draft Strategy in so far as providing additional jobs in the locality.

2. STATUTORY CONTROLS

Section 79C(1)(a) requires Council to consider any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and other prescribed matters.

2.1 Hornsby Local Environmental Plan 1994

The subject land is zoned Business A (General) under Hornsby Local Environmental Plan 1994 (HSLEP). The objectives of the Business A (General) zone are:

- To encourage economic growth and employment opportunities.*
- To accommodate the retail, commercial and social needs of the community.*
- To encourage development that improves the health, vitality, cultural environment and social environment within the area.*

The proposed development is defined as subdivision under HSLEP and is permissible in the zone with Council's consent.

2.2 Car Parking Development Control Plan

Under Council's Car Parking Development Control Plan, (CPDCP), retail premises require the provision of one car parking space per 20m² of gross leasable floor area (GLFA). Office premises require one space per 40m² of GLFA.

In total, the application proposes the creation of twenty-five separate office and retail spaces within the three buildings. All the spaces within the buildings would be strata subdivided. The development would consist of seven retail and eighteen office premises.

The proposal for Building 1 involves the subdivision of the existing space at 293 Pennant Hills Road into four retail spaces on the ground floor and four office spaces on the first floor. This building was constructed in the early 1970s and at the time that the site was owned by

Council, had ten car parking spaces allocated to it on the adjoining site, when that site was owned by Council. Following the construction of Building 2, over the original Council carpark, the parking arrangements for the site have been restricted to on-street parking in Station Street.

At the time that Council sold the adjoining property containing the ten car parking spaces, off-site car parking for 293 Pennant Hills Road ceased to exist. However, as part of the development consent for the “Officeworks” development in 2002, the developer agreed to a condition of consent which had the effect of providing ten ‘public’ car parking spaces that the tenants of 293 Pennant Hills Road could utilise. Given that the adjoining site has now been amalgamated with 293 Pennant Hills Road as part of this application, the matter of the ten car parking spaces has also been amalgamated into a single development.

Taking into account the retail and office gross leasable floor area (GLFA) of Buildings 2 and 3, as well as the required ten public spaces, the subdivision requires eighty-five spaces. Ninety-nine spaces are provided under the proposed strata plan leaving fourteen spaces surplus for use as visitor parking. As such, the parking provisions are sufficient to accommodate the anticipated demand of the subdivision and the proposal satisfies the objectives and measures of the CPDCP.

To ensure that sufficient visitor car parking is provided, it is recommended that the strata plans be modified to designate fourteen spaces as ‘visitor parking’. It is recommended that the eight spaces to the immediate left of the entrance, as well as the six spaces located across the driveway from the public parking be designated as such. These spaces are the closest to the entrance and therefore the most practical to use as temporary parking.

2.3 Access and Mobility Development Control Plan

Under Council’s Access and Mobility Development Control Plan (AMDCP) retail/commercial premises are required to provide between 1 and 2% of the total car parking allocation as specifically reserved for persons with a disability. The proposal would supply two disabled spaces out of a total of 99. Additionally, the building would be refurbished under the proposal creating disabled toilets and access ramps for access to all tenancies. Accordingly, the proposal satisfies the objectives and measures of the AMDCP.

3. ENVIRONMENTAL IMPACTS

Section 79C(1)(b) of the Act requires Council to consider “*the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*”.

3.1 Built Environment

The proposal consists of the internal alteration of the two larger buildings on the site and the subdivision of the space within all three units into twenty-five office and retail spaces. The external appearance would not be altered other than additional opening for additional light to individual tenancies. The proposal would not have any negative impacts in regards to design.

The application proposes the installation of four new windows along the first storey of the eastern elevation of Building 2. Another window is proposed on the second storey of the eastern elevation. These windows would measure 1.5m in height by 3m in length. The access ramp for the loading bay, approximately 5m in length, separates the proposed windows from the adjacent residential property known as 5 Thornleigh Street, which is located

approximately 3m below the level of the ramp. As a result these windows have the potential to overlook on the private open space of the adjoining property at 5 Thornleigh Street. The two southern-most windows, closest to the loading bay, have the potential to overlook, as would the window on the second storey. These three windows would represent a reduction in the amenity of the resident/s of 5 Thornleigh Street unless appropriately treated.

Consequently, should the application be approved a condition is recommended requiring the installation of visual screens on the subject windows. These screens would be similar to the ones installed on Building 3 to prevent overlooking.

The existing access routes and entrances to the buildings would be retained and additional entrances installed for the new retail premises fronting Pennant Hills Road. The proposal raises no impacts in regards to access from the street.

The vehicular access to the site would remain unchanged. The entrance to the underground carpark is located on the Thornleigh Street frontage to the east of Building 3. Access to Building 3 is via stairs to the south of the carparking area. Access from the carpark to Building 2 is via stairs or a lift to the main entry fronting Pennant Hills Road. Access to Building 1 is via stairs in the northern section of the carpark. These stairs are contained within Building 2 as the carparking area does not extend to Building 1. These stairs exit in the north eastern corner of Building 2, requiring visitors to Building 1 to walk along the delivery driveway to Station Street. This access route raises safety concerns due to the lack of any form of physical separation between the pedestrian and heavy vehicle access routes. Accordingly, should the application be approved, a condition is recommended requiring the construction of a physical barrier between the two access routes.

Currently the accessway to the loading dock is being used for temporary car parking by people using the area. As the accessway is only 5m wide, this practice has the potential to disrupt access to the loading dock for any trucks delivering goods to the premises. Consequently, should the application be approved, it is recommended that a condition be imposed on the site requiring the erection of 'No Parking' signs and bollards in order prevent the loading dock space from being used for parking.

The proposal requires minimal construction, with most to be taken place indoors. However the neighbouring properties at 8 Station Street and 5 Thornleigh Street are located close to the eastern side of the site, where some works are taking place. Should the application be approved a condition is recommended requiring all construction works to be undertaken within normal working hours in order to protect the amenity of neighbouring residential properties.

3.2 Economic Impacts

The economic value of the development on the local and broader community has been considered with specific reference to the potential employment generation within the complex. This is consistent with the North Subregion (Draft) Subregional Strategy that provides a target of 9,000 jobs within the Hornsby LGA by 2031.

Should approval be granted, a Section 94 contribution would be required for the additional allotments in accordance with Council's Section 94 Contribution Plan to provide for community facilities, open space, civic improvements, waste management and bushfire services.

4. SITE SUITABILITY

Section 79C(1)(c) of the Act requires Council to consider “*the suitability of the site for the development*”.

The proposal is consistent with the business zoning of the site and fits into the locality. As such, it is considered that the site attributes are conducive to development of this nature.

5. PUBLIC PARTICIPATION

Section 79C(1)(d) of the Act requires Council to consider “*any submissions made in accordance with this Act*”.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between date and date in accordance with Council’s Notification and Exhibition Development Control Plan. During this period, Council did not receive any written submissions.



NOTIFICATION PLAN

<ul style="list-style-type: none"> • PROPERTIES NOTIFIED 	PROPERTY SUBJECT OF DEVELOPMENT	
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6. THE PUBLIC INTEREST

Section 79C(1)(e) of the Act requires Council to consider “*the public interest*”.

The public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. Implicit to the public interest is the achievement of future

built outcomes adequately responding to and respecting the future desired outcomes expressed in environmental planning instruments and development control plans.

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

7. CONCLUSION

Consent is sought to construct alterations to the existing building to create separate tenancies and to strata subdivide the buildings into 25 units. The proposal complies with the respective provisions of the HSLEP and relevant DCPs. The proposal would not result in negative social, economic or environmental impacts. .

The application was publicly exhibited in accordance with Council's Notification Policy and during that time, did not receive any submissions.

It is recommended that the application be approved subject to the conditions held at Schedule 1 of this report.

SCHEDULE 1**Approved Plans and Supporting Documentation**

1. The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

<i>Plan No.</i>	<i>Drawn by</i>	<i>Dated</i>
A-201-GR Ground Floor Plan	Meriton	10/7/2008
A-201-L01 Level 01 Floor Plan	Meriton	10/7/2008
A-201-ELEV Elevations	Meriton	10/7/2008
Strata Plan Form 2 - Car Parking Level 1 (as amended)	Wayne Allen Diver Tuck	8/7/2008
Strata Plan Form 2 - Car Parking Level 2	Wayne Allen Diver Tuck	8/7/2008
Strata Plan Form 2 - Ground Level	Wayne Allen Diver Tuck	8/7/2008
Strata Plan Form 2 - Level 1	Wayne Allen Diver Tuck	8/7/2008

<i>Document No.</i>	<i>Prepared by</i>	<i>Dated</i>
Statement of Environmental Effects	Meriton	July 2008

2. A Positive Covenant, under Section 88B of the Conveyancing Act 1919, is created, for the provision of and on going maintenance of ten (10) public parking spaces within common property, as indicated on the revised strata plans, for use by the public anytime between the hours of 7:00am to 7:00pm Monday to Friday everyday, except public holidays. All other car parking spaces are to be allocated to individual units, at a ratio commensurate to the size of individual units.
3. The pedestrian access from the basement car park to the premises at No. 293 Pennant Hills Road is to be clearly marked as such and physically separated from the adjacent accessway to the loading dock by the construction of a railing or similar between the two access routes prior to release of the Subdivision Certificate.
4. The loading dock and access from Station Street is to be solely used for truck and van access and shall only operate during the approved hours of operation of the units. At all other times, the loading dock shall be locked by a gate at the entrance to the site from Station Street which prevents vehicular access onto that part of the site. The gate shall be installed to Council's satisfaction prior to the issue of a subdivision certificate.
5. The loading dock and access from Station Street are to be sign posted 'No Parking' zones. The signage is to be erected prior to issue of a subdivision certificate.
6. In order to maintain amenity to adjoining residences, the hours of use of each of the strata units shall be restricted to those times listed below:

Monday - Wednesday	7.00am to 7.00pm
Thursday - Friday	7.00am to 9.00pm

Saturday	8.30am to 6.00pm
Sunday	10.00am to 5.00pm

7. In order to maintain privacy to adjoining dwellings, the windows proposed on the eastern elevation of the building are to be fitted with screens to prevent overlooking, prior to release of the subdivision certificate.
8. The existing fence separating the loading dock from the residential premises at No. 5 Thornleigh Street is to be fitted with solid panels in order to prevent overlooking into the adjacent residential private open space from vehicles utilising the loading dock.

Building Code of Australia

9. All building work must be carried out in accordance with the requirements of the *Building Code of Australia*.

Should there be any alternative solutions listed as Category 2 Fire Safety Provisions and outlined in the Environmental Planning and Assessment Regulation 2000, a fire engineering report should be forwarded to the Brigades for comment under Clause 144 of the Environmental Planning and Assessment Regulation 2000.

Council Property

10. The land and adjoining areas are to be kept in a clean and tidy condition at all times. Litter and rubbish shall be placed in containers and removed from the site. A waste storage container is to be provided at the commencement of the building work.
11. The cost of repairing any damage caused to Council's assets as a result of construction works associated with the approved development is to be met in full by the applicant/developer prior to the issue of a subdivision certificate.

Signs for Construction Sites

12. On-site signage is required to clearly identify the PCA and the principal contractor (the coordinator of the building work) pursuant to the *Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003*, s157(1)(c1), Cl 98A, 136C & 227A.

Hours of Construction

13. In order to maintain the amenity of adjoining properties, site works shall be restricted to between 7.00 am and 6.00 pm, Monday to Friday and 8.00 am to 1.00 pm Saturday. No work shall be undertaken on Sundays or public holidays. Plant, goods or materials shall not be delivered to the site outside the approved hours of site works unless otherwise approved by Council.

Protection of Public Places

14. If the construction works causes pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, a fence must be erected between the building premises and the public place. The fence must be at least 1.8m high of chainwire and galvanised pipe construction. Welded wire reinforcing fabric is not to be used.

be obstructed or rendered inconvenient or unsafe, or the works involve the enclosure of a public place, a hoarding must be erected between the building premises and the public place. The erection of any hoarding and temporary awnings requires separate approval under the Local Government Act, 1993.

15. The work site is to be kept lit between sunset and sunrise if it is likely to be a source of danger to persons using a public place or upon instruction by Council to enhance the safety and security of the area in which the work is located.

Fire Safety Certificate – Final

16. In accordance with Part 9, Division 4 of the Environmental Planning & Assessment Regulation, 2000, the owner of the building must, on completion of the building, provide Council with a certificate in relation to each essential fire safety or other safety measure implemented in the building.

Fire Safety Statement - Annual

17. In accordance with Part 9, Division 5 of the Environmental Planning & Assessment Regulation, 2000, at least once in each period of 12 months after the date of the first fire safety certificate, the owner shall provide Council with a further certificate in relation to each essential service installed in the building.

ROD PICKLES
Manager - Assessment Team 2
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Locality Plan
2. Proposed Strata Plans
3. First Floor Basement Carpark - Amended Car Parking Provisions

File Reference: DA/930/2008
Document Number: D01005394

**7 DEVELOPMENT APPLICATION - DEMOLITION OF EXISTING DWELLING AND ERECTION OF A CHILD CARE CENTRE
96 RAY ROAD, EPPING**

Development Application No:	DA/582/2008
Description of Proposal:	Demolition of existing dwelling and erection of a child care centre for 48 children.
Property Description:	Lot 3 DP 8346 (No. 96) Ray Road Epping
Applicant:	Mr Andre Elahyek
Owner:	Mr E Isaac
Statutory Provisions:	Residential A (Low Density) Zone
Estimated Value:	\$680,000
Ward:	C

RECOMMENDATION

THAT Development Application No. 582/2008 at Lot 3 DP 8346 (No. 96) Ray Road Epping be approved subject to conditions of consent detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. The application proposes the demolition of an existing dwelling and the erection of a child care centre for 48 children.
2. The application is subject to an appeal in the Land and Environment Court against Council's deemed refusal of the application (Proceedings No. 10744 of 2008).
3. The proposal complies with the provisions of the Hornsby Shire Local Environmental Plan and the Community Uses DCP other than departures to the prescriptive measures for landscaping and site selection, which are considered acceptable.
4. Thirty eight submissions have been received in respect of the application. Three submissions have been received in response to amended plans.
5. It is recommended that the application be approved.

HISTORY OF THE SITE

The site is the subject of Development Application No. 192/2008 approved on 20 June 2008, for demolition of the existing carport and subdivision of one allotment into two. Under that consent, it was envisaged that a new dwelling would be constructed on the rear portion of the site (subject to separate consent).

THE SITE

The site comprises an existing single storey brick dwelling house with tiled roof on a large residential lot having an area of 1,421sqm with dimension 18.3 metres wide x 70.1 metres depth. The site has frontage to the northern side of Ray Road.

The site has a gradual slope with an average fall of 10% to the rear boundary. An existing dwelling house with attached carport is sited on the land. The site is clear of natural vegetation and includes a number of non-indigenous trees and shrubs.

The adjoining residential lots are of similar size with detached single storey dwellings. The locality is characterised by low density residential development comprising detached dwellings of single and two storey construction.

ASSESSMENT

The development application has been assessed having regard to the '2005 City of Cities Metropolitan Strategy', the 'North Subregion (Draft) Subregional Strategy' and the matters for consideration prescribed under Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act). Subsequently, the following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Metropolitan Strategy – (Draft) North Subregional Strategy

The Metropolitan Strategy is a broad framework to secure Sydney's place in the global economy by promoting and managing growth. It outlines a vision for Sydney to 2031; the challenges faced, and the directions to follow to address these challenges and achieve the vision. The draft North Subregional Strategy acts as a framework for Council in the preparation of a new Principal LEP by 2011.

The draft Subregional Strategy sets the following targets for the Hornsby LGA by 2031:

- Employment capacity to increase by 9,000 jobs; and
- Housing stock to increase by 11,000 dwellings.

The proposed development would be consistent with the draft Strategy in so far as providing an additional seven jobs in the locality.

2. STATUTORY CONTROLS

Section 79C(1)(a) requires Council to consider any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and other prescribed matters.

2.1 Hornsby Local Environmental Plan 1994

The subject land is zoned Residential A (Low Density) under Hornsby Local Environmental Plan 1994 (HLEP). The objectives of the zone are:

- (a) *to provide for the housing needs of the population of the Hornsby area.*
- (b) *to promote a variety of housing types and other land uses compatible with a low density residential environment.*
- (c) *to provide for development that is within the environmental capacity of a low density residential environment.*

The proposed development is defined as ‘demolition’ and ‘child care centre’ under HLEP and is permissible in the zone with Council’s consent.

Clause 15 of HLEP prescribes that the maximum floor space ratio (FSR) of development within the zone is 0.4:1. The proposed building would have an FSR of 0.275:1, which satisfies the development standard.

2.2 Children’s Services Regulation 2004

Compliance with the Regulation is required for the licensing of child care centres by the NSW Department of Community Services.

The proposed development has been designed for the proposed number of child care centre places in accordance with the space requirements of the Regulation for the provision of indoor and outdoor play areas, cot room and staff room. The proposed number of seven staff meets the requirement of the Regulation for the ratio of staff to children according to age group, ie:

15 places 0 – 2 years	Staff ratio 1 per 5 children	= 3
16 places 2 – 3 years	Staff ratio 1 per 8 children	= 2
17 places 3 – 6 years	Staff ratio 1 per 10 children	= 2
48 places TOTAL		7

The prescribed indoor & outdoor play area requirements under Clause 30 of the Regulation are reiterated under Council’s Community Uses Development Control Plan (DCP).

2.3 Community Uses Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive design standards within Council’s Community Uses DCP. The proposal complies with the DCP requirements in respect to density, setbacks, parking & access, design, recreation space, acoustics, land sensitivity, solar access and crime prevention. The following table sets out the proposal’s compliance with the prescriptive standards of the Plan:

Community Uses Development Control Plan
--

Control	Proposal	Requirement	Compliance
Density	48 places	50 places	Yes
Height	2 storey	2 storey	Yes
Car parking	12 Spaces	12 Spaces	Yes
Indoor play area	161.5m ²	156m ²	Yes
Outdoor play area	431.8m ²	336m ²	Yes
Site cover	32%	40%	Yes
Landscaping	41%	45%	No
Staff	7	7	Yes

As detailed in the above table, the proposed development does not comply with the landscaping prescriptive standard. Further, the proposal does not meet a number of the DCP's site selection criteria. The matters of non-compliance are discussed below.

2.3.1 Landscaping

The proposed landscaping involves 41% of the site and does not comply with the prescriptive measure of 45%. The departure to the development standard is considered acceptable having regard to the submitted landscape plan, which includes appropriate landscaped areas to soften the extent of paved surface area at the frontage of the building and to complement the development in the streetscape. It is noted that the development exceeds Council's minimum development standards in a number of areas, (i.e. floor space ratio, site coverage and outdoor play area) and, on balance, the development outcome would be reasonable.

In departure of the development standard is addressed by recommended conditions of consent to minimise the visual impact of the paved carparking area in the streetscape. Subject to recommended conditions, it is considered the proposal meets the DCP landscaping element objective.

2.3.2 Site Selection Criteria

The Community Uses DCP includes the following site selection criteria as being appropriate locations for child care centres:

- sites with less exposure to neighbouring dwellings and noise sensitive areas (i.e. corner sites, sites adjacent to non-residential uses).
- sites where drop-off and pick-up turning areas can be provided.
- sites with safe vehicular access (i.e. not on a main road).
- sites which form part of an established place of worship or community facility.

- sites with close proximity to parkland.
- sites within walking distance (i.e. 700m) to a railway station and employment centre.
- sites close to populations with a large proportion in the 0-4 age group.
- large sites with potential for extensive play areas.

The subject site comprises a large narrow lot which adjoins three dwelling house lots. The site fronts Ray Road which is identified as a collector road in Council's road hierarchy. The site is not within walking distance of Epping railway station & town centre nor is it in close proximity to parkland. The site does not form part of a church or community facility.

The proposed site does not meet a number of the DCP's site selection criteria for child care centres. However, the proposed centre is conveniently located for parents on route to Epping AM and returning PM and includes entry & exit driveways. Conditions for traffic calming and parking management are recommended to ensure that the proposal would be satisfactory in respect to traffic and road safety (refer to Section 3.4.9 of this report).

The development's departure from site selection criteria standards under the DCP needs to be offset against the recognised need for child care places in Epping particularly for the 0-2 year age group. The proposed centre has social and economic merit in meeting the increasing demand for child care in the locality (refer to Section 3.1 of this report).

In view of the proposed centre's convenience for parents, demand for childcare centres in the locality and compliance with amenity criteria, non-compliance with site selection criteria in itself should not be fatal to the application.

2.4 Waste Minimisation & Management DCP

The application includes a Waste Management Plan for the demolition of the existing dwelling, in compliance with the DCP requirements. A condition to ensure the implementation of best practice waste management during construction of the development, is recommended.

3. ENVIRONMENTAL IMPACTS

Section 79C(1)(b) of the Act requires Council to consider "*the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*".

3.1 Social Impact on the Locality

The proposal would have a positive social impact in meeting demand for the child care places at Epping and generally in enabling the return of parents/carers to the workforce. This is evident by the shortage of child care centre places across Hornsby LGA with a waiting list of 300 children for the 208 places within Council's own centres for the 0-2 year age group. At Council's Somerville Park Centre at Epping there is a waiting list of 90 children for the 0-2 year age group.

At Epping the existing child care centres primarily are older style pre-school centres catering for 3 – 5 year olds and there is a shortage of long day care centre places.

The proposal would contribute to the number of child care centre places within the Epping area. Also, the proposed centre is of design to provide opportunity for the provision of ancillary child care services, eg. early childhood professional and health services and support programs for children with additional needs.

The need for improved child care services and quality of child care is recognised in the Federal Government's recent budget initiatives, which includes establishing 260 additional Early Learning and Care Centres across Australia.

3.2 Economic Impact on the Locality

The proposal increases employment opportunities in child care and would contribute to the local economy.

The proposed centre provides opportunity for parents/carers to return to the workforce, increasing household income and benefiting the local economy.

3.3 Natural Environment

The proposed development would necessitate the removal of two of the ten trees from the site. The trees to be removed are not identified as 'significant trees'. An appropriate condition to protect the trees to be retained, including Tree No. 3 on the adjoining land is recommended.

3.4 Built Environment

The impact of the proposed development on the built environment is examined below.

3.4.1 Building Alignment

The proposed 23.4m front building setback is inconsistent with the predominant building alignment in the street of 6m – 10m. The proposed front setback however provides for the car parking area, which is in accordance with the setbacks performance criteria of the Community Uses DCP, ie: "*for setbacks to allow for off street car parking*".

The proposed development is on the lower side of the street and would not significantly detract from streetscape. The proposed front setback is therefore considered acceptable.

3.4.2 Bulk & Scale

In scale and appearance the proposed child care centre is considered generally consistent with recently constructed low density residential development in the locality. The proposed car park results in a greater building setback in the streetscape and the proposed building is at a lower level to the street. The applicant has submitted a streetscape elevation plan which illustrates that the first floor of the proposed development appears as a single storey structure in the streetscape, consistent with adjoining dwelling houses.

The proposed landscaping is considered satisfactory in softening the extent of the paved front setback area in the streetscape and in complementing the proposed building, subject to adherence to recommended conditions.

The proposed building is sited predominantly to the rear of the site and adjacent to the back yards of adjoining detached dwellings. The proposed building would form a dominant

element to the rear of adjoining properties, which is considered acceptable with regard to the proposed materials, finishes, solar access and design for privacy.

It should be noted the site has approval for subdivision of the land (DA/192/2008) with an indicative building envelope and battleaxe lot approved for rear of the site. A future dwelling house on the rear of the site is a likely eventuality should the proposal not proceed. In that regard, the future built form of the site has been determined regardless of the outcome of this application. The proposed development is in keeping with Council's requirement for single storey development on a battleaxe lot as the rear (majority) of the building would be a single storey element.

The proposed building is two storey at the front elevation and single storey to the rear. The proposed building would appear predominantly single storey in relation to the yards of adjoining residential property and in relation to the streetscape. The proposal is considered satisfactory in terms of low density residential design.

The proposal involves cut and fill and construction of a 2m high retaining wall between the car park and the building. Approximately 70% of the site's landform is modified for the proposed development. The cut & fill enables slab on ground construction and car park crossfall design criteria to be met. Whilst the DCP seeks to minimise earthworks and land disturbance, the DCP also seeks to provide car parking at the front of buildings to promote off-street carparking. In this regard, it is considered that the design represents a reasonable response to the DCP.

The proposed child care centre complies with Clause 30 of the Children's Services Regulation 2004, in respect to spatial and functional requirements. The proposed outdoor play area exceeds the regulatory area requirement and meets the Community Uses DCP site selection requirement for extensive play areas. The proposed first floor, as amended, includes sufficient suitable area for activities and services ancillary to the operation of the child care centre.

3.4.3 Crime Prevention

The proposed development has been designed to minimise crime in accordance with CPTED principles by way of clear sightlines, windows that overlook the car parking area and pedestrian access and clearly defined building entry and access.

The proposal complies with the Community Uses DCP crime prevention element objective.

3.4.4 Privacy

The proposed development is of design to minimise impacts on privacy of properties adjoining the western and eastern boundaries by way of no opening windows of the building being provided on side elevations.

The building is elevated to the rear boundary and the rear porch would have an outlook to the rear adjoining property. However, the proposed building is setback 21.4m from the rear boundary and therefore, the development would not result in any direct privacy impacts. The submitted landscaping plan includes screening along the rear northern boundary which is considered adequate to address privacy for the adjoining property.

The application includes construction of lapped & capped timber fencing to finished ground levels to address visual and acoustic privacy for adjoining properties.

3.4.5 Noise Impacts

The proposed hours of the centre are weekdays from 7 am to 6 pm. The primary sources of noise from the centre would be vehicle movements at the beginning and end of the day and outdoor children's activities periodically throughout the day.

The applicant has submitted an acoustic report prepared by RSA Acoustics Pty Ltd which includes recommendations to minimise noise impacts on adjoining residential property, resulting from the proposed development.

The applicant proposes to construct a combination of masonry fencing in the front car park area and timber fencing in the rear play area to mitigate against noise impacts on neighbouring properties. However, it is also considered necessary that operational procedures are implemented that manage the outdoor play area. These procedures should incorporate restrictions on the use of amplified music, sirens, whistles or any other device that mechanically increases noise levels in the rear yard. In addition, the centre should be managed in such a manner so as to minimise the number of children in the outdoor play area at any one time. In that regard, no more than 20 children should be outside at any one time. A further requirement that the centre provides adjoining and nearby neighbours details of the name of the duty manager and contact number of the centre in the event that neighbouring residents have particular concerns with the daily operation of the centre is recommended.

A condition is included for the implementation of the report recommendations which includes masonry/lapped and capped timber fencing along the side and rear boundaries and operational procedures for outdoor play.

3.4.6 Solar Access

The application includes shadow diagrams which demonstrate compliance with Council's requirements for developments maintaining a minimum of 4 hours of sunshine to the open space areas of adjoining residential properties, in accordance with the Community Uses DCP solar access requirement.

3.4.7 Access For People With A Disability

The application includes an access report prepared by Morris-Goding Accessibility Consulting that made recommendations for the proposal, in compliance with *Australian Standard 1428, the Building Code of Australia*, the *Disability Discrimination Act* and Council's Access & Mobility DCP.

In this respect, it is necessary that the internal stairs of the centre be of the required width to accommodate a wheelchair stair lift. A condition is recommended for implementation of the access report recommendations.

3.4.8 Visual Impact

The proposal retains the majority of existing trees on the site and would not detract from the existing visual quality of the site. The proposed landscaping plan includes appropriate planting to complement the development in the streetscape and minimise the visual impact of paved area for the car park at the frontage. The proposed materials and finishes blend the development with the surrounding environment and is considered acceptable.

3.4.9 Transport, Traffic, Access and Parking

The site has frontage to Ray Road which is a collector road in Council's road hierarchy. The road carries high traffic volumes in the AM and PM peaks. The applicant submitted a Traffic Impact Study for the proposed development together with additional information as requested by Council. Council's traffic and road safety assessment concludes that the development would be acceptable subject to a number of on-site management and on-street traffic calming measures.

The proposal includes 12 car parking spaces in compliance with Council's Community Uses DCP. The proposed parking layout for two stacked car parking spaces for staff is satisfactory for child care centre use. Subject to recommended conditions the proposal complies with the parking and access element objective of the Community Uses DCP.

The proposal would not have any impact on the safety or functioning of the bus stop and post box located 100m east of the site on Ray Road.

3.4.10 Soils and Waterways

The applicant submitted a Soil & Water Management Plan and a geotechnical report, in compliance with the Community Uses land sensitivity element objective. A condition is recommended for the Soil & Water Management Plan to be implemented in accordance with Council's best practice guidelines.

The site is in the vicinity of a former watercourse now piped as part of Council's stormwater drainage system. The proposed car park and building involve extensive paved surface areas, increasing stormwater runoff from the site. A condition is recommended to provide adequate stormwater detention to minimise downstream impacts from stormwater runoff.

3.4.11 Waste Minimisation & Management

The applicant submitted a Waste Management Plan for the demolition of the existing dwelling in accordance with the requirements of the Waste Minimisation and Management DCP.

The waste generated by the operation of the proposed development would be collected by commercial waste contractor at the street frontage.

A condition is recommended for compliance with project management best practice during construction in accordance with the Waste Minimisation and Management Guide.

3.4.12 Energy Efficiency

The proposed building would achieve energy efficiency through masonry construction (thermal mass) and the building envelope which includes shading at the northern elevation.

A condition is recommended to ensure that the development is constructed in a manner that incorporates energy efficient hot water heating.

3.4.13 Technological Hazards

In accordance with Council's requirements, the applicant submitted a preliminary contamination assessment prepared by GeoEnviro Consultancy. That report determined:

Within the context of the scope of work carried out, the results of the contamination assessment indicate that the likelihood of gross ground chemical contamination on the site is generally considered low.

A condition is recommended to require validation that the site is suitable for the child care centre use, in accordance with the *NSW Environment Protection Authority* guidelines.

Appropriate conditions are recommended for the safe identification and removal of asbestos from the site during the demolition phase of the development.

4. SITE SUITABILITY

Section 79C(1)(c) of the Act requires Council to consider “*the suitability of the site for the development*”.

The site has a gradual slope and is currently the site of a dwelling house. The site is suitable for the proposed development subject to the implementation of erosion and sediment control measures during construction to protect downstream water quality.

The proposal is similar in bulk, scale and form to recent residential development occurring in the locality.

5. PUBLIC PARTICIPATION

Section 79C(1)(d) of the Act requires Council to consider “*any submissions made in accordance with this Act*”.

5.1 Community Consultation


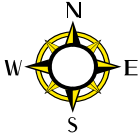
The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 21 May 2008 and 11 June 2008 in accordance with Council’s Notification and Exhibition Development Control Plan. During this period, Council received 41 submissions and a petition with 197 signatories. There were 3 submissions in support of the proposal and 38 submissions objecting to the proposal.

The application was further notified following receipt of amended plans and 3 submissions were received from previous respondents reiterating concerns.

The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

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

Thirty eight submissions objected to the development, generally on the following grounds that the development would result in:

- Loss of trees;
- Unacceptable traffic, parking & road safety impacts;
- Unacceptable impact on residential character;
- Non-compliance with site selection criteria;
- Stormwater drainage nuisance.

Three submissions were neutral to the development and made the following observations:

- Leaflets being distributed reflected NIMBY attitude of objectors.

The merits of the matters raised in community submissions have been addressed in the body of the report.

5.2 Public Agencies

There were no submissions received from public authorities.

6. THE PUBLIC INTEREST

Section 79C(1)(e) of the Act requires Council to consider “*the public interest*”.

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

The application is considered to have satisfactorily addressed Council's criteria and would provide a development outcome that, on balance, would result in a positive social impact for the community. The departure from site selection criteria in Council's DCP in itself should not be fatal to the application given that the application demonstrates that it could proceed in a sustainable manner and fulfil a community need. Accordingly, it is considered that the approval of the proposed would be in the public interest.

7. CONCLUSION

The proposed child care centre is consistent in scale with low density residential development in the locality and complies with the Community Uses DCP in respect to the majority of the DCP criteria.

The development application was the subject of considerable response to the initial notification of the proposal. The subsequent amended plans involved minor changes to the proposal to address landscaping, disabled access and functional use of the first floor. There was limited response to the notification of the amended plans.

The development application is the subject of an appeal in the Land and Environment Court against Council's deemed refusal of the application.

The concerns raised in the submissions to the application are principally in respect of traffic and road safety matters. The concerns have been considered in the assessment of the application and are addressed by recommended conditions for traffic calming and parking management.

On balance, and having regard to the community benefit of the proposal, it is considered that the development is worthy of Council's consent. Accordingly, recommended conditions of consent are held at Schedule 1 to this report.

SCHEDULE 1**Approved Plans and Supporting Documentation**

1. The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

<i>Plan No.</i>	<i>Drawn by</i>	<i>Dated</i>
2/6 Site Plan / Ground Floor Plan	SB Design	11-08-2008
3/6 First Floor Plan / Roof Plan	SB design	11-08-2008
4/6 Elevations & Sections	SB Design	11-08-2008
5/6 Elevations & Sections	SB Design	11-08-2008
Landscape Plan	RFA Landscape Architects	19-08-2008

Note: This development consent does not provide for any signage. A separate development application shall be submitted for the child care centre.

2. The child care centre shall have a maximum of 48 places in the following groups.
 - 0 – 2 years: 15 places
 - 2 – 3 years: 16 places
 - 3 – 6 years: 17 places
3. The hours of operation of the centre are restricted to weekdays between 7.00am and 6.00pm .
4. The materials and colours to be used in the construction shall be in accordance with the samples submitted to Council (Reference No. D00911778).
5. The driveways and car parking area shall be in coloured concrete or similar treatment to minimise visual impact and to complement the landscaping of the development.
6. The proposed bin storage at the frontage shall be deleted and replaced with landscaping generally in accordance with the landscape plan for the area at the frontage.

A suitable bin storage area shall be provided adjacent to car parking space No. 10 and the pedestrian pathway.
7. The development shall operate in accordance with all recommendations in the acoustic report prepared by *RSA Acoustics* dated April 2008 accompanying the application which requires specialised acoustic treatment of the building and/or the way in which the use is to operate and the following:
 - i) The acoustic fencing on the eastern side of the car park shall be of masonry construction, 1.8 metres high and not forward of the building alignment on the adjoining property, as illustrated on the approved plans;
 - ii) A maximum of 20 children shall occupy the outdoor play area at any one time;

- iii) No amplified music, sirens, whistles or other mechanical device that mechanically increases noise levels shall be used in the outdoor play area;
 - iv) Details of the name and contact number of the on-site manager shall be provided to adjoining and nearby neighbours to contact the centre in the event that excessive noise is being generated by the centre;
 - v) A 1.8 metre high lapped and capped timber fence shall be constructed along the side and rear property boundaries of the property at the sole cost of the applicant;
 - vi) All noise generated by the proposed development is to be attenuated to prevent levels of noise being emitted to adjacent premises which possess tonal, beating and similar characteristics or which exceeds background noise levels by more than 5dB(A).
8. The hot water system for the development shall have an energy efficiency rating of not less than 3.5 stars.
9. Documentary evidence (ie. tipping dockets/receipts from transfer stations and landfills) shall be submitted to Council or the principal certifier to confirm compliance with the Waste Management Plan lodged with the development application.
10. To minimise waste, appropriate project management techniques shall be employed in accordance with Section C1.01 of the Hornsby Shire Council Waste Minimisation and Management Guide.

Building Code of Australia

11. All building work must be carried out in accordance with the requirements of the *Building Code of Australia*.
12. The land and adjoining areas are to be kept in a clean and tidy condition at all times. Litter and rubbish shall be placed in containers and removed from the site. A waste storage container is to be provided at the commencement of the building work.
13. The cost of repairing any damage caused to Council's assets as a result of construction works associated with the approved development is to be met in full by the applicant/developer prior to the issue of a subdivision certificate.

Sediment & Erosion Control

14. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site. The controls are to be designed and installed in accordance with the requirements of Landcom's "Managing Urban Stormwater: Soils and Construction", Volume 1, 4th Edition, March 2004, (the Blue Book), and Hornsby Shire Council's "Sustainable Water Best Practices" manual and shall:-
- i) be effectively maintained at all times during the course of works and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.

- ii) include adequate measures to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
- iii) ensure disturbed areas are rehabilitated with indigenous plant species, landscaped and treated by approved methods of erosion mitigation such as, mulching, and revegetation with native grasses or other suitable stabilising processes within fifteen days of the completion of works.

Hours of Demolition Works

15. In order to maintain the amenity of adjoining properties, demolition works shall be restricted to between 7.00 am and 6.00 pm. No demolition works are to be undertaken on Saturdays, Sundays or Public Holidays. Plant, goods or materials shall not be delivered to the site outside the approved hours of site works unless written Council gives consent.

Demolition

16. All demolition work is to be carried out in accordance with the applicable provisions of *Australian Standard 2601-2001 'The Demolition of Structures'*.

A sign must be erected in a prominent position on the premises, on which the demolition of a building is being carried out, stating that unauthorised entry to the premises is prohibited and showing the name of the builder or other person in control of the premises and a telephone number at which the builder or other person may be contacted during and outside work hours. The sign is to be removed when the demolition of the building has been completed.

Note: Applicants are reminded that WorkCover NSW requires all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.

Asbestos Removal

17. The following conditions shall be complied with regarding asbestos:
 - i) Prior to commencement of any work involving the demolition, alteration or addition to any building on the development site, a survey is to be conducted by a competent person to ascertain whether any asbestos materials exist thereon. Asbestos material means any material that contains asbestos.
 - ii) Where asbestos material is found to exist on the development site and that asbestos material is to be removed or disturbed as a result of any proposed demolition, alteration or addition, then all work involving removal and disposal of asbestos material must be undertaken by persons who hold the appropriate licence issued by WorkCover NSW under Chapter 10 of the Occupational Health and Safety Regulation 2001.
 - iii) The collection, storage, transportation or disposal of any type of asbestos waste is to comply with the requirements of clause 29 of the Protection of the Environment Operations (Waste) Regulation 1996.
 - iv) Upon completion of disposal operations, the applicant must lodge with the principal certifying authority, within seven (7) days, all receipts (or certified

photocopies) issued by the receiving landfill site as evidence of proper disposal.

Note: The person responsible for disposing of the asbestos material shall consult with the Environment Protection Authority to determine the location of an approved landfill site to receive asbestos material.

- v) On construction sites where buildings contain asbestos material, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected on the site in a prominent position visible from the street. The sign is to be erected prior to any work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility. This condition is imposed for the purpose of worker and public safety and to ensure compliance with Clause 259(2)(c) of the Occupational Health and Safety Regulation 2001.

Signs for Construction Sites

- 18. On-site signage is required to clearly identify the PCA and the principal contractor (the coordinator of the building work) pursuant to the *Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003*, s157(1)(c1), Cl 98A, 136C & 227A.

Dust Control

- 19. Measures to prevent the emission of dust or other impurities into the surrounding environment are to be implemented during demolition works.

Hours of Construction

- 20. In order to maintain the amenity of adjoining properties, site works shall be restricted to between 7.00 am and 6.00 pm, Monday to Friday and 8.00 am to 1.00 pm Saturday. No work shall be undertaken on Sundays or public holidays. Plant, goods or materials shall not be delivered to the site outside the approved hours of site works unless otherwise approved by Council.

Excavation & Backfilling

- 21. Retaining walls or other approved methods necessary to prevent the movement of excavated or filled ground, are to be constructed together with associated stormwater drainage measures prior to occupation of the development or before where site conditions require.

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must:

- i) preserve and protect the building from damage;
- ii) if necessary, underpin and support the building in an approved manner; and
- iii) at least 7 days before excavating, give notice of intention to do so to the adjoining owner and furnish particulars to the owner of the proposed work.

Protection of Public Places

22. If the erection or demolition of a building causes pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, a fence must be erected between the building premises and the public place. The fence must be at least 1.8m high of chainwire and galvanised pipe construction. Welded wire reinforcing fabric is not to be used.

Fire Safety Certificate – Final

23. In accordance with Part 9, Division 4 of the Environmental Planning & Assessment Regulation, 2000, the owner of the building must, on completion of the building, provide Council with a certificate in relation to each essential fire safety or other safety measure implemented in the building.

Fire Safety Statement - Annual

24. In accordance with Part 9, Division 5 of the Environmental Planning & Assessment Regulation, 2000, at least once in each period of 12 months after the date of the first fire safety certificate, the owner shall provide Council with a further certificate in relation to each essential service installed in the building.

Survey Reports

25. To ensure that the building and any associated structures are correctly positioned on the site, a report prepared by a registered surveyor is to be submitted to the principal certifying authority at each level of construction of the building (prior to the pouring of concrete) indicating that the finished floor level is in accordance with the approved plans.

Sydney Water

26. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then see Building & Renovating under the heading Building & Renovating, or telephone 13 20 92.

Long Service Levy

27. Under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 any work costing \$25,000 or more is subject to a Long Service Levy. The levy rate is 0.35% of the total cost of the work and shall be paid to either the Long Service Payments Corporation or Hornsby Shire Council. Under section 109F (1) of the Environmental Planning & Assessment Act, 1979 this payment must be made prior to a construction certificate being issued.

Construction Certificate – Engineering Works

28. A construction certificate must be obtained from either Council or an Accredited Certifier. Engineering design plans and specifications are to be prepared by a chartered professional engineer for any proposed works. The plans and specifications are to be in accordance with development consent conditions, appropriate Australian standards, and applicable Council standards, in particular "Hornsby Shire Council

Civil Works - Design and Construction Specification". Information required to be submitted with a construction certificate is as follows:

- a) copies of compliance certificates relied upon
 - b) Four (4) copies of the detailed engineering plans in accordance Hornsby Shire Council's Civil Works - Design Specification 1999. The detailed plans may include but are not limited to the earthworks, roadworks, road pavements, road furnishings, stormwater drainage, landscaping and erosion control works.
 - c) Hornsby Shire Council's approval for roadworks and public drainage is required prior to the issuing of a construction certificate for these works.
29. All engineering works required by this consent must be designed and undertaken in accordance with the relevant aspects of the following documents, except as otherwise authorised by this consent. A Construction Certificate is to be obtained prior to commencement of works.
- a) Australian Rainfall and Run-Off 1987
 - b) Hornsby Shire Council's Design and Construction Specifications 1999

Inspections - Engineering

30. All engineering work required by the consent must be inspected at the "hold points" as nominated in the Hornsby Shire Council Civil Works Construction Specifications 1999. Certificates shall be issued prior to occupancy confirming that the works comply with development consent, construction certificate and Hornsby Shire Council Civil Works - Design and Construction Specification.

Road Works (Driveway/ Access)

31. A separate application under the Local Government Act 1993 and Roads Act 1993 shall be submitted to Council for approval for the following:
- a) the installation of an additional vehicular footway crossing servicing the development from Ray Road.
 - b) the levels provided by Council are to be used to design the internal driveway.
 - c) further, evidence of Council's levels being incorporated into the longitudinal section is to be submitted with a construction certificate application.

Note: This application can only be submitted by one of Council's Authorised Vehicular Crossing Contractors. You are advised to contact Council's Works Division on (02) 9847 6940 to obtain a list of Council's Authorised Vehicular Crossing contractors.

32. The vehicular footway crossing, driveway and the parking areas are to be designed and constructed in accordance with Hornsby Shire Council Civil Works Specifications, Australian Standards 2890.1 and 3727 and comply with the following requirements:

- a) A longitudinal section through the centreline of the driveway from the road to the proposed car parking areas showing proposed driveway grades and allowing or suitable transition at changes of grades, is to be submitted for consideration with a construction certificate application.
- b) The maximum grade is to be 25% with maximum transition for changes of grade to be 8% per plan meter.

33. The ingress and egress crossings shall be suitably signposted prior to occupation.

Drainage – On Site Detention

34. The drainage system to control all collected roof and surface stormwater shall be designed with an on-site-detention system. The system shall be designed by a Chartered Professional Civil/Hydraulic Engineer of the Institution of Engineers, Australia to the following requirements:

- a) A below ground system the storage/ ponding capacity of not less than 17.90 m³ and maximum permissible discharge, when full, 22.80 litres per second.
- b) The discharge from an on-site-detention shall be connected to the inter-allotment easement to drain water that is to be created prior to issue of a construction certificate.

35. Stormwater drainage from the site shall be designed (pipes and gutters) to satisfactorily drain rainfall intensities for an average recurrence interval of 20 years. The design shall:

- a) be in accordance with Hornsby Shire Council - Design Specification
- b) be in accordance with Australian/New Zealand Standard 3500.3.
- c) ensure that the development, either during construction or upon completion, does not impede or divert natural surface water runoff so as to cause a nuisance to adjoining properties.
- d) A surcharge/inspection grate is to be located directly above the outlet.
- e) Stormwater discharge from the detention system is to be controlled via a one metre length of pipe not less than 50mm diameter discharging into a larger diameter pipe capable of carrying the design flow to Council's gutter/stormwater pit.

Certificate and Restriction as to user and Positive Covenant for OSD system

36. A certificate from a Chartered Professional Engineers of the Institution of Engineers, Australia (also known as Engineers, Australia), confirming that the on-site detention system has been constructed according to construction certificate plans and will function hydraulically in accordance with the approved design plan shall be submitted to Council (via PCA if private).

The certificate (OSD) is to include work-as-executed details of the on-site-detention system prepared by a Chartered Professional Engineer/Registered Surveyor and verify

that the storage has been constructed in accordance with the design requirements. The details are to show the invert levels of the OSD system as well as the pipe sizes and grades. Any variations must be shown in red and supported by calculations.

37. An appropriate 88B restriction as to user and a positive covenant are to be created on the title of the land describing the on-site detention system clearly and responsibilities for maintenance and that they are not to be varied without the consent of the Council. Evidence of creation shall be submitted prior to occupation of the premises.

Interallotment Easement to Drain Water

38. Construction of an interallotment stormwater drainage system to service the lot through the downstream property (lot 5, DP 205518). The OSD system is to be connected to the interallotment drainage pipe.
39. The interallotment easement to drain water (through lot 5, DP 205518) shall be created prior to issue of a construction certificate and evidence provided to the nominated Principal Certifying Authority.

Tree Protection

40. To protect trees, the removal of trees numbered 2, 3, 6 and 10 marked on the plan or excavation or filling of soil or the placing of building materials or associated works (ie water, sewer, telephone, drainage) within the three metre setback is not permitted without written approval from Council.
41. To avoid mechanical injury or damage, tree number 10 is to have the trunk protected by 2m lengths of 75mm x 25mm hardwood timbers spaced at 80mm secured with galvanised wire (not fixed or nailed to the tree in any way). Trunk protection is to be installed prior to the issue of a construction certificate and maintained in good condition for the duration of the construction period. Affixing signage to trees located on site or located on the nature strip is strictly forbidden.
42. To prevent damage to tree roots, excavation (for services and other works), change of soil level (cut or fill), parking (vehicles or plant), or placement of building materials (including disposal of cement slurry and waste water) within the specified tree protection setbacks, and within three metres of all other trees to be retained onsite, is strictly forbidden. No tree roots located within the specified tree setbacks shall be severed or injured in the process of any site works during the construction or landscaping phases of the approved project. The applicant shall ensure that all underground services (i.e. water, drainage, gas, and sewer) shall not be laid within 3m of any tree located on the property protected under Council's Tree Preservation Order.
43. Works within the specified tree setbacks of trees 2, 3, 7, 8, 9 and 10 has been approved by Council's Parks and Landscape Team and shall be carried out in such a manner that is non-injurious to any roots revealed. Tree roots between 10mm and 50mm diameter, revealed during excavation, shall be cut cleanly by a sharp hand saw. The severance of tree roots greater than 50mm in diameter is not permitted. If roots of such diameter are revealed by hand excavation, the applicant must provide Council's Parks and Landscape Team an assessment by a qualified arborist that outlines the likely impact of severing the roots or an alternative to the proposed works.

44. Prior to the issue of an occupation certificate validation sampling must be carried out in the building areas after removal/demolition of the structures to ensure contamination does not exist in these areas in accordance with the recommendations made by GeoEnviro Consultancy Pty Ltd in their Preliminary Contamination and Geotechnical Report dated 3 July 2008. All sampling must be undertaken in accordance with the NSW Environment Protection Authority's *Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites and Contaminated Sites – Sampling Design Guidelines*
45. Prior to the issue of an occupation certificate, all mechanical plant equipment must have noise specifications, proposed locations and orientations reviewed prior to installation on the site to ensure that they will not singularly or in total emit noise levels which possess tonal, beating and similar characteristics or which exceeds background noise levels by more than 5dB(A). Should the calculated noise emissions from the mechanical plant equipment be in excess of the set limits, appropriate acoustic treatment must be implemented by a suitably qualified consultant.
46. The operator of the centre shall ensure that all parents enrolling in the child care centre be required to use the on-site parking facilities for drop off and pick up
47. A traffic calming device is to be designed and constructed at the sole cost of the applicant for that section of Ray Road between Midson Road and Kent Street in accordance with Council's written requirements prior to the issue of an occupation certificate.
48. In accordance with the approved plans and *Australian Standard AS 2890.1:2004 Off-street car parking and AS 2890.2 - 2002 Off-street commercial vehicle facilities*, a minimum of 12 marked and numbered car spaces shall be provided on site.
49. The development shall comply with the recommendations of the Access Review prepared by *Morris-Goding Accessibility Consulting* dated 18 July 2008. Certification of compliance by the access consultant is to be obtained prior to the issue of a Construction Certificate.

ROD PICKLES
Manager - Assessment Team 2
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Locality Plan
2. Site Plan
3. Floor Plans & Elevations
4. Landscape Plan
5. Shadow Diagram

- 6. Stormwater Drainage Plan
- 7. Traffic Calming Plan

File Reference: DA/582/2008
Document Number: D01011026

**8 KEEP AUSTRALIA BEAUTIFUL (NSW) 2008 SUSTAINABLE CITIES
AWARD - HERITAGE MANAGEMENT BY A METROPOLITAN COUNCIL**

EXECUTIVE SUMMARY

Council has been awarded the Keep Australia Beautiful (NSW) 2008 Sustainable Cities Award for Heritage Management by a Metropolitan Council. The Award publicly recognises Council's leadership in heritage practice amongst local governments. In receiving the Award, Council is recognised for its work in, and promotion of, heritage conservation, the support it provides to residents through a range of conservation initiatives, information, advice and financial assistance.

PURPOSE/OBJECTIVE

The purpose of this report is to advise Council that it has been awarded the Keep Australia Beautiful (NSW) 2008 Sustainable Cities Award for Heritage Management by a Metropolitan Council.

BACKGROUND

Keep Australia Beautiful's Sustainable Cities Programme is a leading community and environmental award programme for metropolitan communities in NSW. Local councils and other community groups are invited to participate in the programme.

The aim of the Sustainable Cities Programme is to provide recognition and acknowledgement of outstanding environmental initiatives implemented by local government authorities, businesses, schools and community groups. Sustainable Cities raises public awareness of a range of environmental issues. The projects/programmes carried out not only improve the environment, but also improve the standard of living and quality of life for urban communities.

The Sustainable Cities Awards, formerly known as the Metro Pride Awards, include the Heritage Management by a Metropolitan Council Award. The Award is partnered by the NSW Heritage Council and the Department of Planning. The Award is specifically aimed at local government due to its responsibility for heritage management in NSW.

In May 2008, Council made a submission (copy attached) for an award under the Heritage Management by a Metropolitan Council category. The submission outlined the management controls that Council has put in place, including provisions within the Hornsby Shire Local Environmental Plan (HSLEP) 1994, the implementation of the Heritage Development Control Plan, an established Heritage Advisory Committee and a full-time Heritage Officer, financial incentives to owners of heritage items and several other initiatives. Hornsby Shire Council has been awarded first place in the category.

DISCUSSION

The Heritage Management by a Metropolitan Council Award has been established to acknowledge that heritage items, be they buildings or sites or moveable items, should be

there for future generations to enjoy within a harmonious environment. Heritage includes conservation areas and main street precincts, individual buildings, industrial heritage sites, historic gardens and parks, archaeological sites, cemeteries, moveable items and Aboriginal heritage sites. The Award is presented in recognition of projects or programmes that aim to educate, promote, better manage and physically conserve heritage items. The Award is not designed for one-off projects with priority given to councils which have best practice management in place.

In receiving the 2008 Heritage Management by a Metropolitan Council Award, Council is congratulated for its work in, and promotion of, heritage conservation, the support it provides to residents through a range of conservation initiatives, information, advice and financial assistance. It is acknowledged that a range of heritage items have been recognised by Council, including some Council owned properties, natural areas of heritage significance, industrial sites and conservation areas. Council previously won the Award in 2005.

The Award was received by former Councillor Mark Lyons as Chair of the Heritage Advisory Committee and Council's Heritage Planner on behalf of Council at the Keep Australia Beautiful 2008 Sustainable Cities Awards dinner held at the AJC Convention Centre, Randwick on Thursday, 14 August 2008.

The Heritage Management by a Metropolitan Council Award recognises Council for being a leader in implementing heritage initiatives and best practice management in NSW. The Award honours Council at a State level, for its work in protecting and promoting the rich history and culture of the Shire. By publicly acknowledging Council's leadership in heritage practice amongst local governments, the Award will assist in raising the profile of Council's heritage practices to residents of the Shire and beyond.

BUDGET

There are no financial implications.

POLICY

There are no policy implications.

CONSULTATION

No consultation was required in the preparation of this report.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes.

As this report only provides Council with information and does not propose any actions which require a sustainability assessment, no Triple Bottom Line considerations apply.

CONCLUSION

Council has been awarded the Keep Australia Beautiful (NSW) 2008 Sustainable Cities Award for Heritage Management by a Metropolitan Council. Council previously won the Award in 2005. By publicly acknowledging Council's leadership in heritage practice amongst

local governments, the Award will assist in raising the profile of Council's heritage practices to residents of the Shire and beyond.

RECOMMENDATION

THAT the contents of Executive Manager's Report No.PLN198/08 be received and noted.

JAMES FARRINGTON
Manager - Town Planning Services
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Council Submission
2. Keep Australia Beautiful (NSW) Sustainable Cities Award

File Reference: F2004/07641
Document Number: D01006797

9 KU-RING-GAI AND HORNSBY SUBREGIONAL EMPLOYMENT STUDY

EXECUTIVE SUMMARY

The Ku-ring-gai and Hornsby Subregional Employment Study includes key observations and recommendations concerning employment lands within the North Subregion and provides strategic direction for the future role and function of employment lands. The Study has been funded jointly by Hornsby and Ku-ring-gai Councils and the Department of Planning (DOP).

Hornsby and Ku-ring-gai Councils have endorsed the Study for exhibition. However, on 17 July 2008, the DOP advised that it was concerned that the Study recommendations for Dural Service Centre may be contrary to State planning policy and therefore did not support exhibition of the Study.

On 9 September 2008, a deputation of Councillors and staff from Hornsby Council met with the DOP representatives with a view to progressing the exhibition of the Study and commencing discussions on appropriate land use options for the Dural Service Centre. As a result of discussions, the DOP has agreed to progression of the exhibition of the Study subject to inclusion of an addendum outlining the role of the Study and commenting on the zoning for the Dural Service Centre without reference to specific zones under the State Government's Standard Instrument.

It is recommended that Council endorse the progression of the exhibition of the Ku-ring-gai and Hornsby Subregional Employment Study jointly with Ku-ring-gai Council, including the addendum endorsed by the DOP.

PURPOSE/OBJECTIVE

The purpose of this report is to advise Council of the outcome of discussions with the Department of Planning concerning progression of the Ku-ring-gai and Hornsby Subregional Employment Study to public exhibition.

BACKGROUND

At its meeting on 18 June 2008, Council considered Executive Manager's Report No. PLN 130/08 (copy attached) presenting the findings of the Ku-ring-gai and Hornsby Subregional Employment Study and seeking endorsement of the Study for public exhibition. Council resolved to endorse the Study for public exhibition subject to an addendum that the zoning of the Dural Service Centre include consideration of applying a B2 (Local Centre) and/or B5 (Business Development) zone in addition to the IN2 (Light Industrial) zone.

On 24 June 2008, the DOP was formally notified of Council's resolution. In response, the Department advised that it was concerned that the Study includes recommendations for Dural Service Centre that may be contrary to State planning policy. The Department advised that it did not support exhibition of the Study in its current form and requested that reference to the B2 (Local Centre) zone be deleted from the recommendations for the Dural Service Centre. The Department suggested that the B1 (Neighbourhood Centre) zone would be more appropriate.

On 6 August 2008, Council considered Executive Manager's Report No. PLN171/08 advising of the response from the Department. Council resolved that:

- 1. Council endorse a deputation to meet with the Department of Planning, comprising the Mayor, General Manager, Chairman of the Dural Service Centre Review Working Party, the Councillor representative from the Subregional Employment Study Working Party and relevant Council officers, with a view to progressing the exhibition of the Subregional Employment Study and commencing discussions with the Department on appropriate land use options for the Dural Service Centre.*
- 2. The outcome of discussions with the Department of Planning be reported to Council.*
- 3. Should the Department of Planning provide its support for the exhibition of the Study, that Council endorse the Ku-ring-gai and Hornsby Subregional Employment Study for public exhibition, jointly with Ku-ring-gai Council without reference to an addendum for Dural Service Centre.*

In accordance with Council's resolution, a meeting between representatives of Council and the DOP was held on 9 September 2008. (Then) Councillors McIntosh and Evans, the General Manager, Executive Manager Planning Division, Manager Town Planning Services and Senior Strategic Planner represented Council at the meeting. The Regional Director and two officers from the Sydney West Regional Team represented the DOP at the meeting.

DISCUSSION

This report outlines the outcome of discussions with the DOP concerning progression of the Ku-ring-gai and Hornsby Subregional Employment Study to public exhibition.

Ku-ring-gai and Hornsby Subregional Employment Study

The main aim of the Subregional Employment Study is to ensure local employment lands strategies facilitate opportunities for the provision of an additional 13,500 jobs within the Subregion by the year 2031 as required by the Metropolitan Strategy. The objective of the Study is to develop a strategy for zoning, land uses and controls for employment lands that is consistent with the hierarchy of commercial centres under the Metropolitan Strategy and the State Government's Standard Instrument.

The Study has been undertaken by SGS Economics and Planning and has been overseen by a working party comprised of Council officers and Councillors from Ku-ring-gai and Hornsby Councils and representatives from the DOP.

The Study includes key observations and recommendations in respect of each of the employment zones within the Subregion. The Study confirms the hierarchy of centres in respect of the Metropolitan Strategy and the draft North Subregional Strategy, and provides strategic direction for the future role and function of employment lands, including the application of zones from the State Government's Standard Instrument. The key issues and recommendations are as follows:

- a) Reinforce the role of the Hornsby Town Centre as the major town centre in the Subregion by preserving a commercial core and identifying adjacent business development areas to facilitate future growth in the Centre.
- b) Strengthen the role of Epping as a Town Centre by increasing higher order office and retail activities.
- c) Strengthen the local service role of Villages, Small Villages and Neighbourhood Centres through a reduction in higher order retail and employment uses.
- d) Protect existing strategic industrial centres and promote the centres as a competitive place for industrial activity.

Meeting with Representatives from the Department of Planning

In accordance with Council's resolution, a deputation of Councillors and Council staff met with representatives from the DOP on 9 September 2008, to discuss concerns raised by the Department concerning the recommended business zoning to be applied to part of the Dural Service Centre.

At the meeting, Council officers outlined that the Study recognises that the Dural Service Centre has a mixed industrial and local service profile. There is no zone under the Standard Instrument that, either through its objectives or compulsory permissible land uses, reflects the current range of land uses permissible under the current Business E (Service Centre) zoning. The recommended zoning strategy under the Study is to apply the IN2 zone. However, to introduce some additional variety of local service uses, the Study recommends that part of the Centre could be zoned B2. Department representatives reaffirmed their support for the application of the IN2 zone, which is considered appropriate given the role and function of the Centre. However, Department representatives noted that the main concerns with the Study relate to the recommended application of any business zoning to the Centre.

It was noted that *timber and building supplies* and *landscape and garden supplies* would both be permitted activities within the IN2 zone and would likely accommodate a number of the existing activities currently occurring within the Centre as *bulky goods retailing* under the current Hornsby LEP. In discussion it was suggested that Council could either support the Study recommendation to prohibit *Bulky Goods Retailing* within the IN2 zone or justify an alternative position supporting *Bulky Goods Retailing* in the Centre. However, it was not that Council should review existing bulky goods retailing establishments within the centre in relation to definitions under the Standard Instrument during the exhibition period.

Council representatives confirmed that some Dural Service Centre Working Party members were also seeking support for the inclusion of *vehicle sales and hire premises* within the Centre. Department representatives advised that Council would need to undertake additional work to support the permissibility of this activity and that the Department would provide evaluation criteria should Council wish to investigate introducing vehicle sales as a permissible use.

Department representatives noted that in commenting on the preparation of the Study, the Department has only indicated its support for a small restricted area within the Centre that may allow for a wider range of retail and commercial land uses to service the needs of the immediate local area. It was commented that the draft North and North West Subregional Strategies identify Round Corner as the nearest Village Centre to the Dural Service Centre. Although a small Neighbourhood Centre may be appropriate within the Dural Service Centre,

Department representatives raised concern that the application of the B2 zone would allow the development of businesses and services of a similar nature to that currently provided at Round Corner.

Department representatives stated that, under the Standard Instrument, it is intended that the B2 zone be applied to local centres on major public transport routes. It was suggested that the finding of the Study that the Centre could accommodate a range of small scale services and facilities to serve the needs of people who live and work in the immediate locality, is more closely align with a B1 zoning and not the recommended B2 zone.

Department representatives acknowledged that the recommendations contained in the Study are of a preliminary nature and will require refinement in the preparation of Council's Principal LEP. However, concern was raised that by exhibiting recommended zonings for centres, there is a perception that the recommendations may be seen as being endorsed as a final position of the Department. Department representatives advised that care was needed to ensure that in placing the Study on exhibition, the community does not view the recommendations as being endorsed by the Department, in particular the application of the B2 zone to the Dural Service Centre.

After discussion, it was agreed that the exhibition of the Study should be progressed subject to an addendum being exhibited with the Study. The addendum should acknowledge that the zone and land use recommendations contained within the Study do not represent a definitive list of uses and land zones and are intended as a guide only to assist the Councils in the progression of their Principal LEPs. It was also agreed that the identified role for the Dural Service Centre is as a light industrial area with a limited area identified for the application of a business zoning with business activity limited to permitting wider retail and commercial uses to service the needs of the immediate local area.

It was noted that a report would be presented to Council seeking endorsement for the progression of the exhibition of the Study with the inclusion of the addendum. A copy of the notes of the meeting is attached.

Subregional Employment Study Addendum

In accordance with the agreed actions from the meeting, an addendum has been prepared (copy attached). The addendum notes that the Study provides Strategic direction for the future role and function of employment lands. It is acknowledged that the Study includes recommendations to guide and inform Council in the preparation of its Principal LEP. Specifically in relation to the Dural Service Centre, the addendum states that the key finding of the Study is that generally the Centre should be zoned industrial with a limited area identified for the application of a business zoning for the purposes of servicing the Centre, not the surrounding area. The addendum notes that following the exhibition of the Study, Council will be appropriately placed to continue discussions with the DOP concerning how the various business zones under the Standard Instrument should be applied to the centres with the Subregion.

The addendum has been endorsed by the DOP, Ku-ring-gai Council and the Study consultant for use as part of the exhibition material for the Study. It is appropriate that Council endorse the addendum to enable progression of the exhibition of the Study.

CONSULTATION

In finalising the addendum, consultation was undertaken with the Department of Planning, Ku-ring-gai Council and the Subregional Employment Study Consultant, SGS Economics and Planning.

Should Council endorse the Study for exhibition, it is usual practice for Council to exhibit major studies for a period of two months. The Employment Study Memorandum of Understanding (MOU) requires that the draft Study be exhibited jointly by Hornsby and Ku-ring-gai Councils and that a further report on submissions be considered by the Councils. Exhibition is anticipated to occur in November/December 2008.

At the conclusion of the exhibition period, the Ku-ring-gai and Hornsby Subregional Employment Study Working Party would review submissions and prepare a report to Council. At that time, Council would determine whether to endorse the recommendations of the Study to be progressed as part of Council's Principal LEP.

POLICY IMPLICATIONS

There are no policy implications.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes. As this report provides Council with information and does not propose any actions which require a sustainability assessment, no Triple Bottom Line considerations apply. Triple Bottom Line considerations relevant to the Study were addressed in Executive Manager's Report No. PLN130/08.

CONCLUSION

This report recommends that Council progress exhibition of the Ku-ring-gai and Hornsby Subregional Employment Study jointly with Ku-ring-gai Council, including a reference to an addendum endorsed by the Department of Planning. The Study would be exhibited for a period of two months with exhibition likely to occur in November/December 2008.

At the conclusion of the exhibition period, the Ku-ring-gai and Hornsby Subregional Employment Study Working Party would review submissions and prepare a report to Council on the exhibition of the Study. At that time, Council would determine whether to endorse the recommendations of the Study to be progressed as part of Council's Principal LEP.

RECOMMENDATION

THAT:

1. Council progress exhibition of the Ku-ring-gai and Hornsby Subregional Employment Study including the addendum attached to Executive Manager's Report PLN130/08.
2. The Study be exhibited for a minimum period of two months in accordance with the consultation strategy identified in Executive Manager's Report No. PLN130/08.
3. A briefing for Councillors be conducted during the exhibition period.

4. At the conclusion of the exhibition period, the Ku-ring-gai and Hornsby Subregional Employment Study Working Party review submissions and prepare a report to Council on the exhibition of the Study.

JAMES FARRINGTON
Manager - Town Planning Services
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Ku-ring-gai and Hornsby Subregional Employment Study Addendum
2. Meeting Notes - Department of Planning 9 September 2008
3. Executive Managers Report PLN130/08, late memo and minutes
4. Executive Managers Report PLN 171/08 and minutes

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