

BUSINESS PAPER

PLANNING MEETING

**Wednesday, 17 December, 2008
at 6:30 pm**

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SUPPLEMENTARY AGENDA

QUESTION OF WHICH NOTICE HAS BEEN GIVEN

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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 a 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 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").

If the non-pecuniary interest is significant, the Councillor must:

- a) remove the source of conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official.*

OR

- b) have no involvement in the matter by absenting themselves from and not taking part in any debate or voting on the issue as if the provisions of Section 451(2) of the Act apply.*

If the non-pecuniary interest is non-significant, the Councillor must provide an explanation of why they consider that the interest does not require further action in the circumstances.

POLITICAL DONATIONS DISCLOSURE

Statement by the Chairperson:

"I advise all present that a Political Donations Disclosure Statement pursuant to Section 147(3) of the Environmental Planning and Assessment Act 1979 must be made in the event that a person has made or a Councillor or political party has received a gift or political donation from any person or organisation, including a person or organisation making a submission to an application or other planning matter, listed on the Planning Meeting agenda."

CONFIRMATION OF MINUTES

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

PETITIONS

MAYORAL MINUTES

NOTICES OF MOTION

RESCISSION MOTIONS

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

A WARD DEFERRED

A WARD

Page Number 1

- Item 1 PLN241/08 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 detailed in Schedule 1 of this report.

Page Number 52

- Item 2 PLN244/08 CONSTRUCTION OF A SCOUT/GUIDE HALL
LOT 50 DP 739713, NO. 1X MOUNTSIDE AVENUE, MOUNT
COLAH**

THAT Development Application No. 1320/2008 for construction of a Scout/Guide Hall at Lot 50 DP 739713, No. 1X Mountside Avenue, Mount Colah be approved subject to conditions of consent detailed in Schedule 1 of the independent town planning consultant's report – Nexus Environmental Planning Pty Ltd.

Page Number 54

- Item 3 PLN248/08 DEVELOPMENT APPLICATION - RETIREMENT
VILLAGE (GLENHAVEN GREEN)
599 - 607 OLD NORTHERN ROAD GLENHAVEN**

THAT Development Application No. 1709/2007 for the construction of a Retirement Village (Glenhaven Green) comprising 154 independent living units, community facility and ancillary works at Lot 2 DP 1123753 (No. 599 – 607) Old Northern Road, Glenhaven be approved subject to the conditions of consent detailed in Schedule 1 of this report.

B WARD DEFERRED

Page Number 98

**Item 4 PLN247/08 DEVELOPMENT APPLICATION -
ALTERATIONS AND ADDITIONS TO AN EXISTING
COMMUNITY FACILITY AND USE BY THE 'HORNSBY
WOODWORKING MEN'S SHED'
HEADEN PARK 3X SINCLAIR AVENUE, THORNLEIGH**

THAT Development Application No. 542/2008 for alterations and additions to an existing community facility and use of that facility by the 'Hornsby Woodworking Men's Shed' at Lot 47, DP 35569, No. 3X, Sinclair Avenue, Thornleigh (Headen Park) be approved subject to conditions of consent detailed in Schedule 1 of this report.

B WARD

C WARD DEFERRED

C WARD

Page Number 105

**Item 5 PLN237/08 DEVELOPMENT APPLICATION - MULTI-UNIT
HOUSING DEVELOPMENT COMPRISING TWO
DWELLINGS AND SUBDIVISION
23 HILLS AVENUE, EPPING**

THAT Development Application No. DA/1201/2008 for the erection of a two storey multi-unit development comprising two attached dwellings and subdivision of one lot into two lots at lot 19 DP 30584 (No. 23) Hills Avenue Epping be approved subject to conditions of consent detailed in Schedule 1 of this report.

Page Number 122

**Item 6 PLN239/08 ERECTION OF A DWELLING-HOUSE ON A
BATTLE-AXE ALLOTMENT
PROPOSED LOT 11, 66 & 68 CASTLE HOWARD ROAD
BEECROFT**

THAT Development Application No. 585/2008 at Lot Z DP 385117, Lot B DP 363878, 66-68 Castle Howard Road, Beecroft be approved, subject to the conditions of consent detailed in Schedules A and B of this report.

Page Number 133

**Item 7 PLN240/08 ERECTION OF A DWELLING-HOUSE ON A
BATTLE-AXE ALLOTMENT
PROPOSED LOT 12, 66-68 CASTLE HOWARD ROAD,
BEECROFT**

THAT Development Application No. 585/2008 at Lot Z DP 385117, Lot B DP 363878, 66-68 Castle Howard Road, Beecroft be approved, subject to the conditions of consent detailed in Schedules A and B of this report.

GENERAL BUSINESS

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

Page Number 144**Item 8 PLN245/08 CONSIDERATION OF DRAFT
ENVIRONMENTAL PLANNING INSTRUMENTS -
DEPARTMENT OF PLANNING CIRCULAR**

THAT Council make representations to the Department of Planning:

- A. Raising concerns that the implementation of planning circular PS 08-013 will undermine Council's strategic framework for the establishment of heritage conservation areas.
- B. Requesting that draft LEPs for proposed heritage conservation areas at East Epping and Essex Street (Amendment No. 76), Mount Errington (Amendment No. 84) and Rosebank Avenue (Amendment No. 86) be gazetted as a matter of urgency.

Page Number 150**Item 9 PLN246/08 STRATEGIC PLANNING PROGRAMME REVIEW
- 2009**

THAT:

1. The 2009/2010 Strategic Planning Programme attached to Executive Manager's Report No. PLN246/08 be adopted.
2. A six monthly report be prepared for Councillors providing an update on the Strategic Planning Programme.
3. A Workshop with Councillors be conducted to discuss the 2009/2010 Strategic Planning Programme and Council priorities for strategic planning over the current Council term.

SUPPLEMENTARY AGENDA**CONFIDENTIAL ITEMS****QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN****QUESTIONS WITHOUT NOTICE**

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

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 detailed in Schedule 1 of this report.

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 application was previously considered by Council at its Planning Meetings of 15 October 2008 and 5 November 2008.

3. 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.
4. 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.
5. It is recommended that the application be approved.

HISTORY OF THE APPLICATION

On 15 October 2008 Council refused Development Application No.928/2007 on the grounds that the applicant has failed to demonstrate that it would not have an adverse traffic, parking, bushfire hazard and amenity impact on the neighbouring residents. A rescission motion was subsequently lodged.

Council at its Planning Meeting of 5 November 2008 adopted the rescission motion and subsequently resolved to defer the determination of the Development Application No.928/2007 to allow Council to convene a meeting, chaired by the Mayor, involving the Applicant, Councillors and concerned residents, to address the following issues: traffic, parking, bushfire hazard, amenity, number of units, density and FSR of the development on the allotted space, height of the buildings (especially the perceived height and topography of the ridge on which the development is to take place), set back, and aesthetic impact of the buildings in relation to other surrounding properties.

On 20 November 2008 a meeting was held with Councillors, the applicant and two representatives of the Mount Wilga Neighbourhood Group. There was no agreement reached between the applicant and the residents at this meeting. Ultimately, Council has a statutory obligation to determine the development application. The Mayor subsequently wrote to all residents previously notified and those objecting to the application advising them of the outcome of the meeting. (Refer to Attachment 7).

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	- 4 storeys - 11.9 metres - 20 x 2-bed units, 2 x 3-bed units. (Total 22 units)

- floor area	- 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:

- (a) to provide for the cultural needs of the community,*
- (b) to identify land for the provision of community services and facilities,*
- (c) 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 doorways must comply with AS1428.1.	Yes The Access report advises that the units appear to 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	Yes

	room Circulation space per AS4299	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
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</i>	No

	<i>to 70% of units living rooms and balconies.</i>	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 	X SUBMISSION RECEIVED	 PROPERTY SUBJECT OF DEVELOPMENT	
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37 SUBMISSIONS RECEIVED OUT OF MAP RANGE
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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

Plan No.	Rev	Drawn by	Dated
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

Plan No.	Rev	Drawn by	Dated
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

Plan No.	Rev	Drawn by	Dated
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

Document No.	Prepared by	Dated
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. A construction certificate is not to be issued until a left turn only sign and associated infrastructure is erected at Carrington Road to prevent right turns out into Galston Road. This shall be designed and installed to meet the requirements of the Council's Road and Traffic Safety Branch and the requirements of the NSW Roads and Traffic Authority.
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
7. Letter - Community Consultation

File Reference: DA/928/2007
Document Number: D01051742

**2 CONSTRUCTION OF A SCOUT/GUIDE HALL
LOT 50 DP 739713, NO. 1X MOUNTSIDE AVENUE, MOUNT COLAH**

Development

Application No: 1320/2008

Description of Proposal: Construction of a Scout/Guide Hall

Property Description: Lot 50 DP 739713, No. 1X Mountside Avenue, Mount Colah

Applicant: Mt Colah Scout & Guide Reconstruction Committee

Owner: Hornsby Shire Council

Statutory Provisions: Hornsby Shire Local Environmental Plan 1994: Open Space A (Public Recreation - Local)

Estimated Value: \$337,600

Ward: A

RECOMMENDATION

THAT Development Application No. 1320/2008 for construction of a Scout/Guide Hall at Lot 50 DP 739713, No. 1X Mountside Avenue, Mount Colah be approved subject to conditions of consent detailed in Schedule 1 of the independent town planning consultant's report – Nexus Environmental Planning Pty Ltd.

EXECUTIVE SUMMARY

1. The application proposes the construction of a part one and part two storey Scout/Guide Hall.
2. The development involves land owned by Council. In accordance with Council's adopted policy, an independent assessment of the development application has been undertaken by Nexus Environmental Planning Pty Ltd.
3. The application complies with the provisions of the Hornsby Shire Local Environmental Plan 1994 and Council's Community Uses Development Control Plan.
4. Two submissions have been received in respect of the application.

5. It is recommended that Council consider the attached report prepared by Nexus Environmental Planning Pty Ltd and determine the application by approval.

ASSESSMENT

The development involves land owned by Council. In accordance with Council's adopted policy, an independent assessment of the development application has been undertaken by Nexus Environmental Planning Pty Ltd, which is held at Attachment 3.

CONCLUSION

The proposal seeks approval for construction of a Scout/ Guide Hall. Two submissions have been received during the exhibition of the proposed development comprising 1 objection and 1 submission in support of the application.

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.

It is recommended that Council approve the application in accordance with the recommended conditions of consent prepared by *Nexus Environmental Planning Pty Ltd* and held at Schedule 1 of that report.

ROD PICKLES
Manager - Assessment Team 2
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Locality Plan
2. Architectural Plans
3. Independent Town Planning Consultant's Report

File Reference: DA/1320/2008
Document Number: D01053910

**3 DEVELOPMENT APPLICATION - RETIREMENT VILLAGE (GLENHAVEN GREEN)
599 - 607 OLD NORTHERN ROAD GLENHAVEN**

Development Application No:	1709/2007
Description of Proposal:	Retirement Village (Glenhaven Green) comprising 154 independent living units, community facility and ancillary works
Property Description:	Lot 2 DP 1123753 (No. 599 – 607) Old Northern Road, Glenhaven
Applicant:	Anglican Retirement Villages
Owner:	Anglican Retirement Villages
Statutory Provisions:	Hornsby Shire Local Environmental Plan 1994 Rural BA (Small Holdings – Agricultural Landscapes) Zone State Environmental Planning Policy (Housing for Seniors or People with a Disability) State Environmental Planning Policy No. 11: Traffic Generating Development Sydney Regional Environmental Plan 20: Hawkesbury Nepean River
Estimated Value:	\$57,724,099
Ward:	A

RECOMMENDATION

THAT Development Application No. 1709/2007 for the construction of a Retirement Village (Glenhaven Green) comprising 154 independent living units, community facility and ancillary works at Lot 2 DP 1123753 (No. 599 – 607) Old Northern Road, Glenhaven be approved subject to the conditions of consent detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. The application proposes the staged construction of 154 aged housing units and ancillary facilities at the Anglican Retirement Village (Glenhaven Green).
2. The property was previously approved for 148 aged housing units under SEPP No. 5 pursuant to DA/735/2002, DA/539/2003 and DA/2450/2003 (as amended).

3. The proposal complies with the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, with minor modification via the recommended consent conditions.
4. One submission has been received in respect of the application.
5. It is recommended that the application be approved.

HISTORY OF THE SITE

The property is owned by the Anglican Retirement Village and is subject to three (3) consents for self-care dwellings for the aged or differently abled persons, known as DA No. 753/2002, DA No. 539/2003 and DA No. 2450/2003.

On 1 April 2003 the Land and Environment Court approved Development Application No.753/2002 for *'the erection of 130 self-care dwellings under SEPP No.5'* on No.599 - 601 Old Northern Road. This application was subsequently amended with Council consent on a number of occasions from 2005 to 2008. These modifications included alterations to the unit design, a reduction to 122 units, removal of many trees impacted by road widening works, and a consolidated driveway with traffic signals. The consent approved the staged construction of the development, that has since commenced on the site.

On 15 October 2003, Council approved Development Application No.539/2003 for the *'demolition of existing buildings, construction of a SEPP 5 Development comprising 38 (3-bed) self care dwellings, associated carparking and site works'* on No.607 Old Northern Road.

On 29 October 2004 the Land and Environment Court approved Development Application No.2450/2003 for *"the construction of a SEPP 5 development comprising 38 (3-bed) self care units, community centre with aged care facilities'* at No.603-605 Old Northern Road.

In 2006 the Anglican Retirement Village purchased the three properties benefitting from the SEPP No.5 consents, seeking to consolidate and re-masterplan the approved development. However a modification to SEPP (Seniors Living) 2004, gazetted in November 2006 prohibited self-contained dwellings in this locality, creating legal impediments to lodging a fresh masterplan application.

SEPP (Seniors Living) has now been amended. The purpose of the current application is to rationalise and redesign the three approved developments.

THE SITE

Lot 2 DP 1123753 is a 9.85 hectare site located on the north eastern side of Old Northern Road at Glenhaven.

The property is an irregular shape with a frontage of 344m to Old Northern Road and a depth from Old Northern Road of up to 445m. The property is an undulating site bisected by two watercourses. The first watercourse is located approximately 150 metres from Old Northern Road, flowing in a south-easterly direction from the Flower Power dam towards the side (eastern) property boundary, surrounded by Blue Gum High Forest. The second watercourse is located in the rear of the site, flowing from north to south. This secondary watercourse is currently a grass swale.

The existing trees within the site consist of a mix of exotic and local indigenous species. Dominant indigenous tree species within the locality include *Eucalyptus saligna* (Sydney Blue Gum), *Eucalyptus pilularis* (Blackbutt), *Syncarpia glomulifera* (Turpentine) and *Eucalyptus paniculata* (Grey Ironbark).

The site previously contained three single-storey dwelling-houses and a number of outbuildings. Work has commenced on the site for a retirement village in accordance with DA No. 753/2002. To date, an interim occupation certificate has been issued for 50 units on site.

The site is serviced with water and electricity. A sewerage service is available on the opposite side of Old Northern Road within The Hills Shire Council.

A retail nursery 'Flower Power' adjoins the site's western boundary, and rural-residential properties adjoin to the north and east. The land to the southwest of Old Northern Road comprises 1 to 2 storey residential development within The Hills Shire Council.

The rear north-eastern corner of the property adjoins No.593 Old Northern Road which was approved by the Land and Environment Court for 83 aged housing units pursuant to SEPP No.5 under DA No.513/2004. This property is also currently owned by the Anglican Retirement Village, however it is not part of this application.

THE PROPOSAL

The proposal seeks consent for:

- The phased construction of housing for aged or differently abled persons comprising 154 self contained dwellings comprising 20 x 2-bed dwellings and 134 x 3-bed dwellings. These dwellings are sited in 1 to 2 storey buildings.
- The construction of a central communal building comprising administrative offices, café (96 seats), lounge/ multi-purpose room (56 seats), computer library room and games room, kiosk, chapel (80 seats), hair & beauty salon, 3 consulting suites and an indoor pool/gym. Three separate smaller meeting rooms are distributed through the village.
- Provision of 278 on-site parking spaces comprising:
 - 154 resident car parking spaces (the scheme includes some double garages which are 6m wide, hence these are calculated as a single space pursuant to SEPPSL)
 - 38 (private) on-street parking spaces (including 14 spaces adjacent to the community centre) and
 - 86 tandem (stacked) car parking spaces (located in resident's driveways).
- Ancillary works and landscaping.

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

Stage 1: 50 dwellings have already been construction pursuant to DA/753/2002 (comprising 4 x 1-bed, 21 x 2-bed and 25 x 3-bed units). The current application involves some very minor modifications to the approved ‘Stage 1’ works including the deletion of 6 on-street parking spaces and modification to the stormwater detention basin.

Stage 2: Construction of 54 dwellings, the central community facility, ancillary roads and garbage/meeting rooms. This comprises 20 x 2-bed units and 34 x 3-bed units. Construction of 54 resident parking spaces (garage), 19 on-street visitor spaces, 21 tandem resident/ visitor spaces, and 14 spaces adjacent to the community centre. Works to the riparian area (Blue Gum High Forest) creek. The application also proposes “site works” in part of Stages 3 and 5. This includes the construction of the loop road (Blue Gum Drive) to ensure appropriate access for service/ garbage vehicles and the like.

Stage 3: Construction of 57 x 3-bed dwellings, ancillary roads and garbage/meeting rooms. Construction of 57 resident parking spaces (garage), 3 on-street visitor spaces, 33 tandem resident/ visitor spaces. Works to the riparian area (creek to the rear).

Stage 4: Construction of 20 x 3-bed dwellings, ancillary roads and garbage/meeting rooms. Construction of 20 resident parking spaces (garage), 17 tandem resident/ visitor spaces, and 2 on-street visitor spaces. Drainage from the Flower Power Dam to the blue gum high forest creek is located within this stage.

Stage 5: Construction of 23 x 3-bed dwellings, ancillary roads and garbage/meeting rooms. Construction of 23 resident parking spaces and 15 tandem resident/ visitor spaces.

A comparison of the approved development with the current scheme is summarised in the following table:

TABLE: Comparison of the Approved and Current Development Proposal			
	Approved Development DA/753/02, DA/539/03 DA/2450/03	Proposal – Stage 1 & new Stages 2-5	Net Change
Unit Mix			
1-bed	4	4	0
2-bed	83	41	-42
3-bed	111	159	+48
Total Units	198 units	204 units	+ 6 units
No. Bedrooms	503 beds	563 beds	+ 60 beds
Gross Floor Area (m ²)			
Stage 1 (DA753)	5736 m ²	5736 m ²	
Stage 2 (DA753)	9530 m ²	7922 m ²	
603 (DA2450)	5604 m ²	7248 m ²	
607 (DA539)	5968 m ²	6840 m ²	

Total Gross Floor Area	26,838m ²	27,746m ²	+908m ²
FSR	0.27:1	0.28:1	
Community Facility (m ²)	740 (DA753) 193 (DA2450) 187 (DA539) 1,120m ²	1,405m ²	+ 285m ²
Total Parking	154 (DA/753) + 77 (DA/2450) + 84 (DA/539) 315 spaces	59 (Stage 1) + 278 (Stage 2-5) 337 spaces	+ 22 spaces

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 154 dwellings and would improve housing choice in the locality. It would also provide for some local employment in support services for the elderly residents.

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 Rural BA (Small Holdings - Agricultural Landscapes) under Hornsby Local Environmental Plan 1994 (HLEP). The objectives of the zone are:

- (a) *to restrain population growth, maintain the rural character of the area and ensure that existing or potentially productive agricultural land is preserved.*
- (b) *to promote agricultural use of land and provide for 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 proposed development is defined as 'housing for aged or differently abled persons' under the HSLEP and is prohibited in the zone. The proposal is also inconsistent with the zone objectives. However, the land use is permissible if the development complies with SEPP (Seniors Living) as discussed at section 2.2 of the report and to the extent of any inconsistency between the LEP and the SEPP, the SEPP prevails.

Clause 18 of HSLEP sets out heritage conservation provisions within the Hornsby area that identifies the property as a heritage item of local significance (Pine Trees along Old Northern Road). Council's heritage assessment concludes that the proposal would not have any adverse heritage implications.

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

The application has been assessed against the requirements of State Environmental Planning Policy Housing for Seniors or People with a Disability 2004, (SEPP Seniors Living). This Policy provides State-wide planning controls for the development of housing for the aged and disabled.

In September 2007, SEPP Seniors Living was amended to include savings and transitional provisions in Clause 53, to permit the lodgement of a new masterplan DA for the site. Pursuant to Clause 17 and Clause 53, development of the site for 'serviced self-care housing' is now permissible with consent, which is defined as follows:

"Serviced self-care housing is seniors housing that consists of self-contained dwellings where the following services are available on the site: meals, cleaning services, personal care, nursing care."

An assessment of the development against the other relevant provisions of the SEPP is provided below.

2.2.1 Clause 24 Site compatibility certificate required for certain development applications

As the land is zoned 'Rural', and adjoins land zoned primarily for urban purposes, the Council is not to consent to the development application unless the Director-General Department of Planning has issued a site compatibility certificate. A site compatibility certificate was issued by the Director General on 25 November 2008.

2.2.2 Clause 26 Location and access to facilities

The consent authority is to be satisfied by written evidence that residents of the proposed development will have access to:

- (a) *shops, bank service providers and other retail and commercial services that residents may reasonably require, and*
- (b) *community services and recreation facilities, and*
- (c) *the practice of a general medical practitioner.*

The proposal complies with 'Access' requirements within this clause if a public transport service (bus stop) that will take those residents to the above facilities, is sited within 400 metres of the site.

Hills Bus Service Route 642 and 654 provide daily bus services to Dural Round Corner shops and the City. The traffic report details other buses that travel past the site along Old Northern Road that would link to the round corner shops. The applicant has advised that there are no formalised footpaths at Old Northern Road, however, paths/ crossings are to be installed as part of Stage 1 building works. Consent conditions require all works to Old Northern Road to be completed prior to occupation to ensure that the access arrangements comply with the SEPP. This requires upgrading of pedestrian footpaths to bus stops to satisfy the requirements of SEPP Seniors. Access to the bus stop is to be via a suitable access pathway.

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, including access to ARV Castle Hill. Appropriate conditions are proposed to ensure compliance with this proposal.

With the application of these consent conditions, the access arrangements for the development are appropriate.

2.2.3 Clause 28 Water and sewer

The property is serviced by reticulated water. Sewerage is to be provided by linking into the Sydney Water system on the southern side of Old Northern Road. Sydney Water has not requested any specific conditions at this stage in the development process. This matter is addressed by consent conditions as is typically the case. Notwithstanding, it is noted that Sydney Water did not raise concerns with the previous (approved) schemes.

2.2.4 Clause 30 Site analysis

The application plans, Statement of Environmental Effects and accompanying documents provide details on the existing site and locality consistent with the requirements of this Policy.

2.2.5 Clause 33 Neighbourhood amenity and streetscape

The development's impact on neighbourhood amenity and streetscape would be comparable to the three existing development consents for the property (with appropriate consent

conditions). The suitability of the development's design is assessed in detail elsewhere in this report.

2.2.6 Clause 34 Visual and acoustic privacy

The site is separated from neighbouring residential development by Old Northern Road and landscape buffers are provided along the boundaries to facilitate privacy to adjoining rural residential properties. The boundary setbacks and unit design adjacent to Old Northern Road are comparable to the existing development consents. An acoustic report was submitted with the application which recommends acoustic treatment to those units that would otherwise be affected by road noise. Acoustic treatment to the proposed units is recommended as a condition of consent.

2.2.7 Clause 35 Solar access and design for climate

The siting of the buildings would not result in excessive overshadowing of neighbouring properties. The units are designed and oriented to provide some solar access to private open space areas. A BASIX certificate has been submitted with the application to ensure the design minimises energy/ water use.

2.2.8 Clause 36 Stormwater

Adequate on-site stormwater detention is proposed. The application addresses overland flow paths through the site. In addition, the application includes creek restoration works to improve the environmental quality of the site and downstream flows.

2.2.9 Clause 37 Crime Prevention

The development would achieve appropriate passive and active surveillance, access control, territorial reinforcement, and space management.

2.2.10 Clause 38 Accessibility

The development as a whole has been designed to achieve 100% wheelchair accessibility within units, between units, to the community facility and village gardens. 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.

2.2.11 Clause 39 Waste Management

Adequate waste storage and collection facilities are available.

2.2.12 Clause 40 Development Standards

The site area of 9.96 hectares exceeds the minimum area of 1,000sqm in cl.40(1)(2).

The property has a frontage of 344 metres, well in excess of the minimum of 20 metres in cl.40(1)(3).

Clause 40(4) 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 because the site is zoned Rural. Notwithstanding, the development comprises a mixture of single and two storey units in conformity with the standards.

2.2.13 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). Compliance with the controls is discussed below and reinforced by conditions of consent.

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 the community facilities, internal driveway and public road.
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). Some of the on-street resident/visitor parking spaces are slightly too narrow. This is addressed by condition of consent. Complies.
2(6)	Accessible entry Every entry must comply with AS4299.	Yes The SEE advises that the units comply. Compliance via condition of consent.
2(7)	Interior: general Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	Yes The SEE advises that the units appear to 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.	Yes The SEE advises that the units appear to comply with AS1428.1. Compliance via condition of consent.
2(9)	Bathroom At least 1 bathroom to comply with AS1428.1	Yes The SEE advises that the units comply with AS1428.1. Compliance via condition of consent.
2(10)	Toilet Provide a visitable toilet per AS4299.	Yes The SEE advises that the units 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	As above.
2(13)	Ancillary items	As above.
2(15)	Living room and dining room Circulation space per AS4299.	Yes The SEE advises that the units comply with this provision. Compliance via condition of consent.
2(16)	Kitchen Circulation space per Cl.4.5.2 of AS4299. Width of door approaches of 1200mm.	Yes The SEE advises that the units comply with this provision. Compliance via condition of consent.
2(17)	Access to kitchen, main bedroom, bathroom and toilet	Complies
2(18)	Lifts in multistorey buildings	N/A
2(19)	Laundry Width of door approach to be 1200mm Clear space in front of appliances of 1300mm.	Yes The SEE advises that the units comply with this provision. Compliance via condition of consent.
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.

2.2.14 Clause 42 Serviced self-care housing

ARV is an established aged care provider. All required on-site services and facilities would be provided to the residents. This is addressed by conditions of consent.

2.2.15 Clause 43 Transport Services to local centres

ARV would provide a regular 21 seat coaster mini-bus service. This is required by conditions of consent.

2.2.16 Clause 44 Availability of facilities and services

All necessary services required are to be provided to residents prior to the occupation of the housing. This is required by conditions of consent.

2.2.17 Clause 50 - Standards that cannot be used to refuse development consent for self contained dwellings

Clause	Provision	Compliance
50(a)	Building Height Maximum 8 metres from ceiling to pre-development ground level.	No The community centre building exceeds the maximum height. See discussion below.

50(b)	Density and Scale Maximum FSR 0.5:1.	Yes 0.28:1
50(c)	Landscaped Area Min 30% of the site area.	Yes 50%
50(d)	Deep Soil Zone Min 15% of the site area.	Yes 40%
50(e)	Solar Access. 70% of units' living rooms and private open space receive 3 hours of direct sunlight in mid-winter.	Yes See discussion below.
50(f)	Private Open Space Ground floor unit, min 15sqm with min dimensions of 3 * 3. All other units, min balcony area of 10sqm with dimension of 2m.	N/A This clause applies to infill self care housing, whereas this application is for serviced self-care housing. The development exceeds the minimum areas, with a small number of units with dimensions less than those prescribed.
50(h)	Parking Minimum of 0.5 car spaces for each bedroom.	Yes For this development, this clause requires at least <u>282</u> spaces. In comparison, the DA proposes a total of <u>337</u> spaces (stages 1-5 inclusive).

A discussion of the compliance with the above standards is discussed below:

Building Height – The aged care units do not exceed 2 storeys or 8 metres in height. The community facility building presents to the internal road as single storey but is designed as a two storey building on a slope. The community building exceeds the 8m ceiling height standard. The building is sufficiently setback from the boundary and from the neighbouring dwelling so that it would not result in significant overshadowing or privacy impacts.

Solar Access – There are significant site constraints from this sloping site and need to achieve disabled access through the development that constrain the ability to maximise solar access to all of the units. However, the units are designed so that they have a north/ north-east oriented living room and some solar access to their private open spaces. The applicant submitted a solar access plan of a sample area of the site demonstrating that it achieves a minimum 3 hours sun penetration into the living room and adjacent courtyard.

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

The application is required to be referred to the Roads and Traffic Authority pursuant to Clause 7 of SEPP No.11 as the property is adjacent to an arterial road and comprises development that accommodates more than 50 vehicles. The RTA raised no objection to the application and has recommended conditions. The provisions of SEPP (Infrastructure) do not apply as the application was submitted prior to the commencement of the Policy.

2.4 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 Council's Bushland and Biodiversity Management Team have inspected the site and raise no objections to the development.

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

SEPP 55 requires that the consent authority 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 the proposed development. The environmental assessment of the application has raised no concerns and subject to adherence to conditions of development consent.

2.6 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 and a Creek Restoration plan for the riparian areas that traverse the site.

2.7 Rural Lands Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive design standards within Council's Rural Lands Development Control Plan. There are no specific planning provisions within the Rural Lands Development Control Plan that apply to housing for aged or disabled persons within the Rural zone since this land use is not permissible in the zone pursuant to the HSLEP.

The performance of the development against the generic controls in the Rural Lands Development Control Plan are discussed further below:

2.7.1 Rural Character and Visual Amenity

Rural character was a major issue in the Land and Environment Court appeal for all of the SEPP 5 approvals in this locality. During the appeal for DA No.753/2002, Council's consultants argued that to fit the rural character, the proposal should be in the form of clusters, ie small groups of buildings surrounded by landscape. In response, the in *M & R Civil Pty Ltd v Hornsby Shire Council* [2003] NSW LEC 437 for DA No.753/2002 Roseth SC and Moore C commented:

"LEP 94, the Rural Lands DCP and the Rural Lands Study contain objectives and principles relating the Shire's rural areas. These may be summed up as the maintenance of rural character. SEPP 5, under this application is made, permits medium density housing on rural land that adjoins urban development, providing the occupants are old or disabled people. Thus, while the local controls permit two or three dwellings on this site, SEPP 5 permits about 150 dwellings. We do not think therefore that it is valid to criticise a proposal under SEPP 5 on the basis that it is not

rural in character. If it had only half as many dwellings as it does, it would still not appear rural.”

and:

“In our opinion, the proposal achieves compatibility with the rural area around it. First and foremost, it will be screened or filtered by vegetation that extends around all sides. The buildings facing the road are single-storey, and about the same length as the visually dominant two-storey houses that line a portion of the western side of the road. There are sizeable gaps through the proposed buildings and these give views of the rural lands beyond. While Mr Newbold is right in saying that these views would not be apparent to someone driving past, pedestrians would enjoy them.”

Since the Court approvals, the majority of the trees adjacent to the Old Northern Road boundary have been removed with the consent of Council as these were impacted by road widening. Council subsequently imposed new consent conditions to replant a vegetation screen along the front boundary.

The development provides for very limited landscape setback adjacent to the front boundary, which is almost identical to the Court approved plans. However, this application proposes to construct more building ‘bulk’ adjacent to Old Northern Road than the existing consent, which is not supported. The judgement reproduced above argued that the building bulk near Old Northern Road was acceptable because the buildings were single-storey and about the same length as houses on the western side of the road. In this regard the approved plans provide for two blocks of buildings in Stage 2, each with a width of 40-45 metres, within a landscaped setting. In comparison the amended plan provides for one building 46 metres wide and a second building 64 metres wide. This is inconsistent with the character of the area. This is addressed by recommended consent condition that deletes 4 units adjacent to Old Northern Road. This results in a building bulk adjacent to Old Northern Road that is more consistent with the Court judgement for DA/753/2002.

2.7.2 Dwelling Design

The objective of the ‘*Dwelling Design*’ element in the Rural Lands Development Control requires development to *promote housing design that is compatible with the character of the village and rural areas and has regard to the environmental constraints of sites.*

The aged care units range in height from 1 to 2 storeys, arranged in terrace style groupings that step down the undulating site.

The application plans received and notified in November 2007 proposed buildings similar in form to those approved in Stage 1, with the exception of the roofs which had a higher pitch and gables. The applicant thereafter submitted amended plans in April 2008 that amended the roof form to provide a flatter, more square presentation that is similar to the dwelling design elements in Stage 1. The building elevation materials comprise painted fibre cement sheeting and face brickwork with a metal/ colorbond roof. The material colours comprise a grey roof, with the wall materials including terracotta or brown brickwork, with grey or green fibre cement.

The proposed roof pitch and building designs are not ‘rural’ in character as described in the design elements in the Rural Lands DCP. However, as discussed above under s.2.7.1, the Court previously determined that it is not valid *to criticise a proposal under SEPP 5 on the basis that it is not rural in character.*

The building height, bulk and setbacks are similar to those previously approved. The materials and finishes are not inconsistent with the character of the area.

2.7.3 Setbacks

The objective of the 'Setback' element in the Rural Lands Development Control requires setbacks to *complement the rural character, provide for landscaping and protect the privacy of adjacent dwellings.*

The DCP prescribes a minimum setback to buildings and other structures of 30 metres from Old Northern Road and 15 metres from side and rear boundaries. The development does not comply with the prescriptive controls as discussed in the following:

Old Northern Road Setback (Stage 2 area) – The buildings adjacent to Old Northern Road have a variable setback of 12 to 15 metres. The setback comprises a 2 to 4 metre wide landscape zone adjacent to Old Northern Road. The balance of the setback is predominantly comprised of a communal road, footpath and driveways. While the development provides for limited landscaping along the frontage, the alignment of the internal driveway and building setbacks is similar to the Court approved plans. However, the extent of building bulk within the 30 metre setback that exceeds the Court approval, is not supported and addressed via a consent condition. In addition a retaining wall is proposed within the front landscape setback which is not supported given that this area is only 2 to 4 metres wide. This is also addressed by a consent condition.

Old Northern Road Setback (Stage 4 area) – The Scenic Assessment undertaken as part of DA/539/2003 concluded that the land adjacent to Old Northern Road has a high scenic sensitivity and a low absorption capacity because it is level with the road. The scenic assessment recommended that the built form address the street with a 20 metre setback. In comparison, the buildings in Stage 4 have a variable setback of 15 to 17 metres to the Old Northern Road frontage. This variation to the approved building setback is supported, provided that the proposed driveway works in the front setback are removed to improve the landscape setting of the development. This is addressed by consent condition.

East (side boundary) Setback – The setback treatment along the eastern boundary in Stage 2 is an improvement on the existing approved plans. The existing consent provides a 1.5 to 2.5 metre wide landscape buffer near the aged care units, whereas the proposed plans include a 4 metre wide buffer. The buildings in this location are mostly setback 15 metres from the boundary, with the exception of Units 56A and 57A, which is similar to the existing consent.

The community centre has a variable setback to the eastern (side) boundary, with a minimum setback of 6 metres. This facility is setback more than 150 metres from the neighbouring dwellings to the east. The application proposes some landscaping between this facility and the side boundary.

The buildings in Stage 5 at the rear of the site are setback 3 to 17 metres from the eastern (side) boundary. This boundary adjoins No.593 Old Northern Road which is another property approved for SEPP 5 development under DA/513/2004. The neighbouring consent has a similar side boundary setback to that proposed on the subject site. Proposed unit No.138A is located near the approved units on the adjoining property. However the proposed unit is a single storey structure that has its main living areas oriented to the north and south and would not conflict with the adjacent approved units.

West (side boundary) Setback – This side boundary adjoins the Flower Power nursery. The setbacks are comparable to those previously approved under DA No.539/2003 and are considered appropriate.

North (rear boundary) Setback - This side boundary adjoins the rear boundary of rural residential properties at Wayfield Road. The setbacks are comparable to those previously approved under DA No.539/2003 and DA No.2450/2003. The setbacks in the north-eastern corner of the property have been increased.

2.8 Heritage Development Control Plan

The property contains roadside trees which are listed as a heritage item of local significance under the provisions of Schedule D (Heritage Items) of the Hornsby Shire Local Environmental Plan 1994. The heritage significant trees relate to a stand of Radiata Pines along Old Northern Road.

During assessment of an earlier proposal for DA/753/2002 (at its meeting on 5 June 2006), the Heritage Advisory Committee noted that the retention of most of the heritage listed Radiata Pines along Old Northern Road has been compromised by the internal road network on the development plans approved by the Land and Environment Court as well as future road widening of Old Northern Road. The Committee also noted the poor condition of the majority of the Radiata Pines within the setback of the property, as supported by the assessment undertaken by Council's Tree Management Team. Accordingly, no objections are raised to the proposal on heritage grounds.

2.9 Car Parking Development Control Plan

The primary purpose of this DCP is to provide car parking controls. It prescribes a parking rate of 1 parking space per dwelling >85sqm.

The proposal complies with the prescriptive parking rates for housing for aged or differently abled persons. The DCP requires a total of 154 spaces designed for people with disabilities whereas the application provides a total of 248 spaces designed for people with disabilities, plus an additional 30 spaces with conventional minimum dimensions. The parking provided exceeds the minimum required in the Car parking DCP and SEPP (Seniors Housing).

2.10 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). Compliance is ensured via appropriate conditions of development consent.

2.11 Waste Minimisation and Management Development Control Plan

The proposed retirement village is to have a shared bin system, with 23 bin enclosures (4 designs). Each bin room is able to hold the required number of bins. The distances between each dwelling and the bin enclosure is less than 50 metres for all but 8 dwellings, though only 2 of these are over 60 metres and all are less than 75 metres. Village management are to provide support taking waste between dwellings and bin enclosures where necessary. This is considered acceptable.

Internal roads have been designed to accommodate waste collection vehicles (9.7 metres long) with a 22.5 metre diameter turning circle. At the completion of each stage, the collection vehicles would be able to enter the site, service the bins, turn around where necessary and exit in a forward direction.

The Waste Management Plans for the demolition and construction stages indicate that at least 60% waste would be reused or recycled as required by the *Waste Minimisation and Management Development Control Plan*.

The requirement for adequate waste management is addressed by consent conditions.

2.12 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.

The site contains two creeks and the application proposes to establish native riparian area corridors around these creeks. One of the creeks is currently surrounded by Blue Gum High Forest which is proposed to be retained. The application includes water sensitive urban design elements including rain water harvesting and re-use for garden irrigation and toilets.

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 site contains Blue Gum High Forest (BGHF), a critically Endangered Ecological Community as listed under the Threatened Species Conservation Act 1995. This remnant is located near the centre of the site, in the vicinity of the community centre and riparian corridor. The applicant has submitted a Vegetation Management Plan and Creek Restoration Plan to address the retention and maintenance of this remnant vegetation. The ecological assessment undertaken by Council officers 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, with the implementation of appropriate conditions of consent.

- *Tree Preservation*

There are 255 trees on the site comprising of a variety of species including locally native *Eucalyptus punctata*, *Eucalyptus saligna*, *Eucalyptus paniculata*, *Angophora floribunda*, *Acacia sp.*, *Pittosporum sp.*, *Callistemon sp.*, *Casuarina sp.* and introduced species such as *Pinus radiata*, *Corymbia sp.*, *Eucalyptus sp.*, *Salix sp.*, *Celtis sp.*, *Cupressus sp.*, *Erythrina sp.*, *Araucaria sp.*, *Grevillea sp.*

Ninety-one (91) trees would be remaining after the development.

Of these, trees that are part of the Blue Gum High Forest, referred to as Tree Group.A are considered to be a significant group of trees.

Trees numbered 221-218, 214, 213, 210, 208-204, 195, 194, 192, 191, 183-180, 177-172, 155-143, 141-132, 129-123, 139, 138, 137, 136, 133-128, 125-113, 111-107, 104-92, 90-82, 81-60, 54-51, 49-33, 29-1 would be removed or adversely affected (ie. less than 4m from the proposed building, vehicular access, parking, service trenches or soil level alterations).

Trees numbered 221, 220, 219, 214, 210, 208, 207, 206, 205, 204, 197, 196, 195, 194, 192, 191, 183, 182, 181, 180, 177 which would be removed or adversely affected are considered to be part of a significant group of trees, Tree Group.A.

Many of the trees were previously approved to be removed under the existing development consents. The ecological and tree protection assessment undertaken by the Council concludes that the proposed tree removals is acceptable taking into account the existing development consents and the extensive replacement planting proposed.

3.2 Built Environment

- *Traffic and Access*

Council's engineering assessment of the traffic impacts of the development concludes that the development is acceptable. The traffic generated is comparable to that would have occurred with the implementation of the existing development consents. The assessment recommends appropriate consent conditions including that the traffic signals at the intersection of Old Northern Road and access road be operational before an occupation certificate is issued.

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 Riparian Corridors/ Flooding

The application proposes to maintain and improve the existing riparian corridors through the site. The Council's engineering conditions require that the aged care units be constructed above the 1:100 year flood level.

4.2 Bushfire Risk

The land is not identified as being subject to bushfire risk.

4.3 Site Contamination

Site contamination assessments have been undertaken. Appropriate consent conditions ensure that the land would be suitable for the proposed use.

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 16 November 2007 and 11 December 2007 in accordance with Council’s Notification and Exhibition Development Control Plan. During this period, Council received 1 submission. The minor amendments to the plans proposed subsequent to the public exhibition process did not require re-notification to neighbours. 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 	X SUBMISSIONS RECEIVED	PROPERTY SUBJECT OF DEVELOPMENT	
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One submission objected to the development, generally on the following grounds that the development would result in traffic being directed through Wayfield Road at some future stage.

This matter is discussed below.

5.1.1 Future Work

The resident advised that they were generally in favour of the proposal, however were concerned that the road system in Orchard Drive would allow for traffic to be directed through Wayfield Road at a future stage. There is no proposal currently before the Council to expand the retirement village to the north, so that it adjoins Wayfield Road. Orchard Drive has been designed to enable vehicles and garbage trucks to adequately manoeuvre.

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 was required to be referred to the Roads and Traffic Authority (RTA) pursuant to SEPP No.11 – Traffic Generating Development.

The RTA raised no objection to the application and provided recommended consent conditions. The recommended conditions do not require any external road works. Rather, there was a presumption that the existing approved (uncompleted) roadworks required for DA/753/2002 would be available for the enlarged retirement village. Consent conditions ensure that the approved traffic signals and pedestrian footpaths are established prior to an occupation certificate being issued for the additional aged care units.

5.2.2 Department of Water and Energy

The application was referred to the Department of Water and Energy (DWE) as Integrated Development, requiring approval for works in proximity to a watercourse under the Rivers and Foreshores Improvement Act 1948.

The DWE has raised no objections to the development and has provided General Terms of Approval that are incorporated into the conditions of consent.

5.2.3 Department of Primary Industries

The application was referred to the Department of Primary Industries (DPI) as potentially Integrated Development under the Fisheries Act, given the proposed works to the riparian corridors.

The DPI has raised no objections to the development. The comments provided are addressed by recommended conditions.

5.2.4 Department of Planning

The Director-General of the Department of Planning has issued a site compatibility certificate for the property required pursuant to Clause 24 of SEPP (Housing for Seniors or People with a Disability) 2004. The site compatibility certificate issued on 25 November 2008 advises that the development of 154 serviced self care dwellings is compatible with the surrounding environment.

5.2.5 The Hills Shire Council

Hornsby Council referred the application to The Hills Shire Council. The Hills Shire Council provided details of 34 neighbouring residents to be notified of the proposal. This notification was undertaken by Hornsby Council. No objections were received.

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 aged housing development would be in the public interest.

7. CONCLUSION

The application proposes the erection of a development for serviced self-care housing for aged or differently abled people.

This application has been assessed having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning & Assessment Act 1979, the Hornsby Shire LEP 1994, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and the provisions of the relevant State Environmental Planning Policies. The development complies with the provisions of SEPP (Housing for Seniors or People with a Disability) and is similar to three previous development consents approved for the property under SEPP No.5.

Approval of the application is recommended.

Note: At the time of the completion of this planning report, no persons have made a *Political Donations Disclosure Statement* pursuant to Section 147(3) of the Environmental Planning and Assessment Act 1979 in respect of the subject planning application.

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. Site Floor Plans
5. Unit Floor Plans and Elevations
6. Sections, Perspectives and Community Centre Plans
7. Creek Restoration Plans
8. Staging Plan
9. Comparison of Approved and Proposed Site Plan

File Reference: DA/1709/2007

Document Number: D01055726

SCHEDULE 1**GENERAL MATTERS****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:

Survey Plan

<i>Drawing Number</i>	<i>Rev</i>	<i>Drawing title</i>	<i>Drawn by</i>	<i>Dated</i>
274-05		Survey drawing	Craig and Rhodes	12/2005

Architectural Plans

<i>Drawing Number</i>	<i>Rev</i>	<i>Drawing title</i>	<i>Drawn by</i>	<i>Dated</i>
DA01	E	Site plan	NRP Architecture	23.10.08
DA02	B	Site plan. Area A level 1	NRP Architecture	20.06.08
DA03	C	Site plan. Area A level 2	NRP Architecture	20.06.08
DA04	C	Site plan. Area A level 3	NRP Architecture	20.06.08
DA05	C	Site plan. Area A level 4	NRP Architecture	20.06.08
DA06	E	Site plan. Area A level 5	NRP Architecture	23.10.08
DA07	C	Site plan. Area B level 1	NRP Architecture	20.06.08
DA08	C	Site plan. Area C level 1	NRP Architecture	20.06.08
DA09	C	Site plan. Area C level 2	NRP Architecture	20.06.08
DA10	D	Site plan. Area D level 1	NRP Architecture	10.07.08
DA11	D	Site plan. Area D level 2	NRP Architecture	10.07.08
DA12	D	Site plan. Area D level 3	NRP Architecture	10.07.08
DA13	B	Site plan. Area E level 1	NRP Architecture	20.06.08
DA14	B	Site plan. Area E level 2	NRP Architecture	20.06.08
DA15	B	Site plan. Area E level 3	NRP Architecture	20.06.08
DA16	A	Unit type A and B. Plan elevation and section	NRP Architecture	14.04.08
DA17	A	Unit type C. Plan elevation and section	NRP Architecture	14.04.08
DA18		Unit type F. Plan elevation and section	NRP Architecture	14.04.08
DA19		Unit type G and H. Plan elevation and section	NRP Architecture	06.11.07
DA20		Unit type F94A / F95A and G76A / G77A. Plan elevation and section	NRP Architecture	06.11.07
DA21	A	Unit type J and J1. Plan elevation and section	NRP Architecture	14.04.08
DA22		Unit type L. Plan elevation and section	NRP Architecture	06.11.07
DA23		Unit type M and M1. Plan elevation and section	NRP Architecture	14.04.08

DA24	A	Unit type N. Plan elevation and section	NRP Architecture	14.04.08
DA25	B	Site sections	NRP Architecture	30.06.08
DA26	B	Site sections	NRP Architecture	30.06.08
DA27	A	Site elevations	NRP Architecture	30.06.08
DA28	B	Community centre plans elevations and section	NRP Architecture	30.06.08
DA29		Perspective unit type A and C	NRP Architecture	06.11.07
DA30		Perspective unit type F – Old orchard Drive	NRP Architecture	06.11.07
DA31		Perspective unit type L – Spring Harvest Road	NRP Architecture	06.11.07
DA32		Perspective community centre Blue Gum Drive	NRP Architecture	06.11.07
DA33		Meeting rooms plan elevations and sections	NRP Architecture	14.04.08
DA34		Shadow diagrams – sheet 1	NRP Architecture	06.11.07
DA35		Shadow diagrams – sheet 2	NRP Architecture	06.11.07
Fig 2		Staging Plan	NRP Architecture	06.11.07
Fig 5		Garbage Enclosures	NRP Architecture	31.01.08
Fig 6	B	Garbage Enclosure Plan	NRP Architecture	14.04.08
Fig 5		Demolition Plan	NRP Architecture	July 2007

Landscape Plans

<i>Drawing Number</i>	<i>Rev</i>	<i>Drawing title</i>	<i>Drawn by</i>	<i>Dated</i>
LA01	G	Landscape Plan	Taylor Brammer	19.06.08
LA02	G	Landscape Plan	Taylor Brammer	19.06.08
LA03	G	Landscape Plan	Taylor Brammer	19.06.08
LA04	G	Landscape Plan	Taylor Brammer	19.06.08
LA05	G	Plant Schedule	Taylor Brammer	19.06.08
LA06	B	Landscape Sections	Taylor Brammer	02.05.08
LA07	B	Landscape Sections	Taylor Brammer	02.05.08
LA08	B	Landscape Sections	Taylor Brammer	02.05.08
TP01	P	Tree Removals Plan	Taylor Brammer	24.06.08

Stormwater, Erosion and Sediment Control Plans

<i>Drawing Number</i>	<i>Rev</i>	<i>Drawing title</i>	<i>Drawn by</i>	<i>Dated</i>
05P735-E1	B	Sediment and Erosion Control Notes Legends and Details Sheet 1 of 5	Hughes Truman	22.08.08
05P735-E2	E	Sediment and Erosion Control Plan Stage 2 Sheet 2 of 5	Hughes Truman	10.09.08
05P735-E3	D	Sediment and Erosion Control Plan Stage 3 Sheet 3 of 5	Hughes Truman	09.09.08
05P735-E4	B	Sediment and Erosion Control Plan Stage 4 Sheet 4 of 5	Hughes Truman	25.06.08
05P735-E5	B	Sediment and Erosion Control Plan Stage 5 Sheet 5 of 5	Hughes Truman	25.06.08
05P735-	J	Site Plan Sheet 1 of 6	Hughes Truman	25.06.08

D1				
05P735-D2	E	Creek 1 Sections Sheet 2 of 6	Hughes Truman	28.05.08
05P735-D3	C	Creek 2 Sections Sheet 3 of 6	Hughes Truman	29.05.06
05P735-D6	A	Overflow Creek Sections	Hughes Truman	25.06.08

Vegetation Management and Creek Restoration Plans

Drawing Number	Rev	Drawing title	Drawn by	Dated
Schedule 1	S1	Vegetation Management Works	Travers Environmental	09.09.08
Schedule 2.1	S2	Creek and Blue Gum High Forest Restoration Plan – Bluegum High Forest Conservation Area	Travers Environmental	10.09.08
Schedule 2.2	S12.2	Creek Restoration Plan – Upper Riparian Corridor	Travers Environmental	10.09.08
Figure 7	-	Creek 1 Remedial Works Plan	Hughes Trueman	Sept 2008

Civil Services Plans

<i>Drawing Number</i>	<i>Rev</i>	<i>Drawing title</i>	<i>Drawn by</i>	<i>Dated</i>
MPH-01	P8	Masterplan – Sewer Services	GDK Hydraulics Consulting	23.06.08
MPH-02	P7	Masterplan – Landscape Watering, Domestic Water, Fire Hydrant & Gas	GDK Hydraulics Consulting	23.06.08
MPH-03	P6	Masterplan – Rainwater Harvesting Services	GDK Hydraulics Consulting	23.06.08

Supporting Reports and Information

<i>Document No.</i>	<i>Prepared by</i>	<i>Dated</i>
Statement of Environmental Effects Glenhaven Green Stages 2-5	Smyth Planning	Nov 2007
Vegetation Management Plan (Ref:8039 VMP) (D01004663)	Travers Environmental	Sept 08
Water Cycle Management Plan (D00953218)	Hughes Trueman	1.07.08
Glenhaven Green Village Rules (D01004650)	ARV	Oct 2002
Environment & Construction Management Plan (D00953217)	Hughes Trueman	1.07.08
Tree Assessment – 599 Old Northern Road, 603 Old Northern Road, 607 Old Northern Road (D00953215)	Stuart Pittendrigh	June 2008
Garbage Enclosure Schedule (D00962361)	Unknown	Received 14.07.08
Waste Management Plan (D00849085)	Smyth Planning	04.02.08
Sewer pump out calculations (D00852808)	Unknown	Received 01.02.08
Letter on Overland Flow Path	Hughes Truman	9 July 2008
ARV Services Statement	ARV	Undated
Flora and Fauna Report	Conacher Travers	Nov 2006

Access for people with a disability	Access Associates Sydney	Nov 2007
Assessment of Traffic Noise Intrusion	Acoustic Logic Consultancy	07.11.07
Traffic, Parking and Access Report	GTA Consultants	07.11.07
Basix Certificate 151507M		02.08.07
Schedule of Finishes		Nov 07
Hazardous Materials Survey. 599 Old Northern Road Glenhaven Report E523.1 AA	EI Australia	23.12.05
Hazardous Materials Survey. 601 Old Northern Road Glenhaven Report E524.1 AA	EI Australia	22.12.05
Hazardous Materials Survey. 603 Old Northern Road Glenhaven Report E525.1 AA	EI Australia	10.02.06
Hazardous Materials Survey. 607 Old Northern Road Glenhaven Report E526.1AA	EI Australia	30.12.05
Environmental Site Assessment 599-601 Old Northern Road Glenhaven	EI Australia	28.02.06
Environmental Site Assessment 603 Old Northern Road Glenhaven	EI Australia	19.05.06
Environmental Site Assessment 607 Old Northern Road Glenhaven	EI Australia	07.08.06
Remediation Action Plan. 607 Old Northern Road Glenhaven	EI Australia	20.10.06

Amendment of Plans

2 The approved plans are to be further amended as follows:-

- a) In order to reduce the building bulk adjacent to Old Northern Road and improve the landscape setting of the development, the plans are to delete unit Nos. 33A/33B and 34A/34B and Unit Nos.32A/32B to adjoin the western wall of unit No.35A/35B. The adjacent block of units Nos.28 to 31 is to be relocated 5 metres to the east.
- b) In order to improve the landscape setting of the development, the retaining wall in the landscape setback adjacent to Old Northern Road is not to be sited within 1.5 metres of the front property boundary. This applies where the retaining wall setback on the approved plans is less than 1.5 metres. Where the setback of the wall is currently shown as being greater than 1.5 metres, it is not to be further reduced.
- c) Delete the 2 carparking spaces and driveway located in the front setback area between Units 86A/ 85A and the Old Northern Road property boundary.
- d) The retaining wall to the rear of Unit No.59A is to be relocated outside the critical root zone of Tree No.144 (on the adjacent property) and shall be no closer than 6.5m to the trunk of Tree No.144.

Access and Mobility

3. The development is to be designed and constructed to comply with the standards concerning accessibility and useability for self contained dwellings (serviced self care housing) in Schedule 3 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. A suitably qualified access consultant is to certify

compliance with this condition prior to the issue of an Occupation Certificate.

4. Resident Services are to be provided in accordance with the Resident Services Statement provided at Annexure 23 to the Statement of Environmental Effects and shall include:-
 - a) home delivered meals, and
 - b) personal care and home nursing services, and
 - c) assistance with housework and cleaning services.
5. The main community facility must be constructed in Stage 2 and is to be completed prior to the issue of an Occupation Certificate for any serviced self-care housing.
6. Footpaths from the site to bus stops and pedestrian refuges, immediately adjacent and opposite the site, shall be constructed on Old Northern Road in accordance with AS1428 and Austroads Part 13, to ensure a continuous path of travel to bus services in accordance with the requirements of SEPP (Housing for Seniors or People with a Disability) Clause 26. These works are to be completed prior to the issue of an occupation certificate.
7. In accordance with Clause 43 of SEPP (Housing for Seniors or People with a Disability) the owner of the premises shall provide a dedicated bus service for the use of the residents of the development. This bus is to be capable of carrying at least 10 passengers and is to provide the following minimum service:
 - a) will drop off and pick up passengers at a local centre that provides residents with access to the following:
 - i) shops, bank service providers and other retail and commercial services that residents may reasonably require, and
 - ii) community services and recreation facilities, and
 - iii) the practice of a general medical practitioner, and
 - b) that is available both to and from the proposed development to any such local centre at least once between 8am and 12pm each day and at least once between 12pm and 6pm each day.
8. A restriction as to user is to be registered on the title of the property, in accordance with Section 88E of the Conveyancing Act, limiting the use of any accommodation to which the application relates to the kinds of people referred to in Clause 18(1) of SEPP (Housing for Seniors or People with a Disability).

In this regard, accommodation is only to be occupied by the following:

- a) seniors, or people with a disability,
- b) people who live within the same household with seniors or people who have a disability,

- c) staff employed to assist in the administration of and provision of services to housing provided.
9. Any easement(s) or restriction on Title required by this consent must nominate Hornsby Shire Council as the authority to release, vary or modify the easement(s) or restriction(s).

Acoustic Privacy

10. In order to mitigate potential noise intrusion from Old Northern Road and the adjoining nursery (Flower Power), all of the self contained dwellings are to be designed and constructed to ensure that the following LAeq levels are not exceeded:
- a) in any bedroom – 35dB(A) at any time between 10pm and 7am, and
 - b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) – 40 dB(A) at any time.

Utility Services

11. Electricity services within the public road are to be provided underground. Satisfactory arrangements are to be made with the electricity authority.
12. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.
- Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au or telephone 13 20 92 for assistance.*
- 12A. Water supply – Reticulated water supply is to be provided to the site. All requirements of Sydney Water are to be complies with including those requirements outlined in Annexure 9 ‘Hydraulic Services’ of the Statement of Environmental Effects.
13. Sewerage services – The discharge of sewer from the proposed development shall connect to Sydney Water’s sewerage system via a private pumping system. This is to be inaccordance with the requirements of Sydney Water.

Building Code of Australia

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

Demolition

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

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

16. a) 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.
- b) 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.
- c) 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.
- d) 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.

Hours of Construction

17. In order to maintain the amenity of adjoining properties, site works (including demolition) 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

18. 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.

Home Building Act 1989

19. The builder or person who does the residential building work must comply with the applicable requirements of Part 6 of the Home Building Act 1989 and must not contract to do any residential building work unless a contract of insurance that complies with that Act is in force in relation to the proposed work. A copy of the contract of insurance shall be submitted to Hornsby Council before any works commence.

Fire Safety Schedule

20. 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

21. 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

22. 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.

Retaining Walls

23. Retaining walls exceeding 600mm in height with associated stormwater drainage measures, are to be designed and constructed by a chartered Structural engineer of the institution of Engineers, Australia. Details are to be included with plans and specifications to accompany any construction certificate.

Engineering Works

24. 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
- b) Hornsby Shire Council's Design and Construction Specifications 1999

Note: Any variation from these design requirements must be separately approved by Council.

Road Network, Parking and Loading

25. Parking and loading/unloading areas are to be designed in accordance with Australian Standards AS 2890.1 and 2890.2 2004.

26. All driveways to the units from roads shall be designed to comply with the maximum grade of 25% with maximum transition for changes of grade of 8% per plan metre.

Drainage – On Site Detention

27. The drainage system to control all collected roof and surface stormwater shall be designed with on-site-detention systems. A construction certificate is to be obtained prior to commencement of works.
28. The on-site-detention systems shall be constructed to limit discharge from the development site to predevelopment levels. On site detention storage volume shall be provided for up to 100 ARI storms. Detail calculations and plans showing the controls for 5 year, 20 year and 100 ARI pre development levels are to be provided (ensure that during a 5 year ARI storm, the flow from the development site does not exceed 5 year pre development ARI level, so on). The system shall be designed by a Chartered Professional Civil/Hydraulic Engineer of the Institution of Engineers Australia and constructed in accordance with Council's Engineering specifications.
29. The on site detention systems are to be located outside 100 year overland flowpath or riparian zones.
30. Suitable swimming pool standard fencing is to be constructed around the perimeters of above ground OSD systems.
31. Where the banks of the ponding area exceed a grade of 1 in 4 they are to be covered by a stable maintenance free surface.
32. After completion of works, a certificate confirming that the on site detention systems have been constructed according to the Construction Certificate and will function hydraulically in accordance with the approved design plans and shall be submitted to the PCA.
33. The certificate (OSD) is to include work-as-executed details of the on-site-detention systems prepared by a Chartered Engineer/Registered Surveyor and verify that the storages have 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.
34. An appropriate 88B restriction as to user and a positive covenant are to be created over the constructed on-site detention systems and outlet works in favour of Council to ensure continued maintenance and performance of the stormwater management system in accordance with Council's standard wording prior to occupation of the premises.

Overland Flowpath and Restriction as to User

35. The overland flow path from the "Flower Power Dam" to the water course shall be constructed in accordance to the "Flood Study Report", prepared by Hughes Trueman Pty Ltd (Council's record D00975207) for a 100 year ARI storm event. The floor levels of the units and garages abutting the flowpath (complying with a minimum 500mm and 300mm above 100 year flow level) shall be constructed in accordance with the levels contained in the report. Prior to works proceeding beyond the floor

level, a registered surveyor is to confirm that the floor levels have been built to the requirements.

36. Prior to issue of an occupation certificate, a restriction as to user shall be created on the area affected by the overland flowpath prohibiting the alteration of the final floodway shape and erection of any structure (including fencing) without the written permission of Hornsby Shire Council.

Road Signs

37. All road signs to be erected shall comply with Australian Standards AS 1743-2001

Bridges/Culverts

38. The underside of the bridge slabs shall be a minimum 0.5m above the 100 year ARI flow level. Detail calculations are to be provided with a construction certificate. The bridges/ culverts are to be designed and constructed under the supervision of a Chartered Structural Engineer of the Institution of Engineers, Australia.

Floor Levels of habitable rooms and garage in the proximity of creeks

39. The floor levels of habitable rooms and garages of units abutting creeks shall be a minimum 500mm and 300mm above 100 year ARI flow level.

Boundary screen Planting (western boundary)

40. To ensure adequate screen planting is provided to adjoining properties, additional planting is to be provided between the proposed path and western boundary adjacent to units 85A and 84A. The landscape area must include:
- (i) 30 *Syzigium australe* 'Aussie Southern' planted at 1 metre centres in mulched planter beds. Shrubs to be installed at minimum pot size of 5 litres.

Boundary Planting (eastern Boundary)

41. To ensure adequate planting is provided along the eastern boundary, additional planting is to be provided in the landscape area between Blue Gum Drive and site boundary opposite units 131 and 137. Tree planting to the landscape area must include:
- (i) 10 *Eucalyptus paniculata* planted at 5 metre centres in mulched planter beds. Trees to be installed at minimum pot size of 25 litres.

Boundary screen Planting (Old Northern Road Boundary)

42. To ensure adequate screen planting is provided additional planting shall be provided between car parking at end of Old Orchard Drive and Old Northern Road. The landscape area must include:
- (i) 30 *Syzigium australe* 'Aussie Southern' planted at 1 metre centres in mulched planter beds. Shrubs to be installed at minimum pot size of 5 litres.

Landscape Works To All Areas – Plant sizes and densities

43. All landscape works shall meet the minimum construction standards identified in the Hornsby Shire Council Landscape Code for Development Applications **and be**

maintained into the future to ensure the establishment and successful growth of plant material to meet the intent of the landscape design.

Landscape Certification

44. Prior to the issuing of any Occupancy Certificate, landscape works shall be inspected and certified by experienced Landscape Architect/Designer as being completed in accordance with the requirements of the Development Consent.

Waste Minimisation and Management

45. Blue Gum Drive is to be constructed at Stage 2 to ensure adequate access for service vehicles.
46. Bin storage areas must be designed and constructed in accordance with Council's *Waste Minimisation and Management Development Control Plan*.
47. An easement shall be registered on the title of the land 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 and prior to registration of any plan of subdivision or strata subdivision of the land.

Environmental Sustainability

48. Waters captured in the sediment basin shall be flocculated to ensure that discharges contain no more than 50 mg/L 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.
49. 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.
50. 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* or a material as approved under the DECC general resource recovery exemption.
51. 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.
52. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) must be regularly maintained in order to remain effective. All solid and

liquid wastes collected from the device must be disposed of in accordance with the *Protection of the Environment Operations Act 1997*.

53. 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).
54. 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.

Designated Route - Blue Gum High Forest (BGHF) Trees 159, 158, 157, 156

55. To prevent or minimize soil compaction, designated routes for equipment and foot traffic by work crews shall be determined prior to commencing construction activities. Written approval must be given from both Council and the appointed project ecologist for any works to occur within the area nominated as BGHF.

These routes shall be clearly marked at the site, prior to commencement of construction, with tree protection fencing and signage as specified in Tree Fencing paragraphs of this section.

Compaction

56. Where fencing to prevent compaction of the Critical Root Zone (CRZ) is not possible, the use of Trunk Protection (as below) & temporary wood-chip mulch, gravel mulch or bridges to prevent soil compaction around tree roots is permitted. Wood-chip or gravel mulch, 150mm – 300mm deep on top of a geotextile landscape fabric, will be placed over the root zone of the trees to be protected.

Tree Trunk Protection

57. To avoid mechanical injury or damage, trees numbered 176, 175, 166, 165, 159, 158, 157, 156, 43, 37, 34, 33, 49, 68, 70, 71, 191, are to have their trunks protected by 2m lengths of 75mm x 25mm (recycled) 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.

Tree Fencing

58. Prior to work commencing, tree protection fencing must be erected around Tree Group.A, the Blue Gum High Forest (BGHF), to be retained as specified in the Vegetation Management Plan.
59. Prior to work commencing, tree protection fencing must be erected around the trees numbered 30 – 34 to be retained at a 4.5m setback.
60. Where Tree Protection Fencing obstructs construction, the fencing shall be placed no closer than 2000mm from the edge of the trees trunk & Tree Trunk Protection &

Compaction techniques (per Condition Nos. 63 and 64) shall be employed for the duration of the particular work inside the CRZ.

61. 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 – Trees 34, 33, 37, 49, 68, 70, 71, 43, 129, 144

62. 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 4m of all other trees to be retained onsite, is not permitted.
63. No tree roots located within a 6m setback of any tree located in the specified Blue Gum High Forest shall be severed or injured in the process of any site works during the construction or landscaping phases of the approved project.
64. Excavation for the installation of Fire Hydrants (DFH) within the specified setbacks of trees 34, 33, 68, 49 shall be carried out by hand excavation only.
65. Excavation for the installation of Fire Hydrant (FH), Landscape (LW) & Cold Water (CW) piping within the specified setbacks of trees 37, 34, 129, 68, 70, 71, 43 shall be carried out by using the thrust boring method only.
66. Excavation for the installation of Sewer Services within the specified setback of tree 68 has been approved by Council's Parks and Landscape Team and shall be carried out by using either the thrust boring method or hand excavation.

Driveways/ Pathways – Trees 34, 37

67. The road, Harvest Crescent is proposed to be located within the Critical Root Zone (CRZ) of trees 34 & 37. To ensure any work undertaken will not adversely affect the longevity of the tree, pier and beam construction of the road within the CRZ shall be used with piers being located no closer than 3 metres to the trunks of the trees. The driveway edge shall be no closer than 2 metres to the edge of the trunk. The excavation for the piers within the nominated restriction zone shall be hand dug to reveal the presence of any roots. A qualified and experienced arborist is to be on site overseeing the work to ensure no roots greater than 50mm in diameter are severed, and root damage is minimised.

Tree Removals

68. The removal of trees must be undertaken by a qualified and experienced Arborist and must be undertaken in a manner that does not impact on the surrounding vegetation.
69. Trees, 180, 181, 182, 183, 192, 194, 195 to be removed from the designated Blue Gum High Forest are to be removed by hand only with no excavation/plant equipment entering the area to minimise impacts on the surrounding vegetation. The stumps are

to be cut to ground level only with no stump grinding within 6m of any tree located inside the forest.

Maintain Canopy Cover

70. To maintain local tree canopy cover, a minimum 120 medium to large trees, such as *Eucalyptus paniculata* (Grey Ironbark), *Angophora floribunda* ((Rough-bark Apple) or *Syncarpia glomulifera* (Turpentine) are to be planted on the subject site. The planting location shall not be within 4 metres of the foundation walls of a dwelling or in-ground pool. The pot size is to be a minimum 25 litres and the trees must be maintained and protected until they reach the height of 3 metres. Trees must be locally indigenous, from local plant stock (preferably), reach a mature height greater than 12 metres and have a life span greater than 20 years.

Tree Removal Prohibited

71. To protect significant trees, the removal of trees numbered Tree Group.A (nominated as BGHF) marked on the plan, Travers Environmental, July 2008, REF:8039-VMP, Vegetation Management Plan, or excavation or filling of soil or the placing of building materials or associated works (ie water, sewer, telephone, drainage) within a 6 metre setback is not permitted without written approval from Council.
72. The Village Management Plan and associated Village Rules are to be amended to require on-going management and maintenance of the Blue Gum High Forest Conservation Area. The amendment to the village rules shall include a clause that states “*on-going management and maintenance of the Blue Gum High Forest remnants is to be undertaken in perpetuity by either a fully qualified bush regenerator or bush regeneration team every 6 months to undertake maintenance weeding and supplementary planting. The maintenance regime is to be enhanced if the level of weed infestation deteriorates beyond the restoration targets as stated in the approved Vegetation Management Plan. The bush regeneration team is to remain under the direction of the Project Ecologist who will carry out an inspection every 6 months to assess the condition of the Blue Gum High Forest and submit a compliance report to Council once a year. To ensure relevance of the maintenance works within the Blue Gum High Forest Conservation Area, the Village Association may request a review or updated Vegetation Management Plan which will need to be submitted to Hornsby Council for approval.*”

Note: This condition has been agreed by Applicant’s Ecological Consultant.

73. A “Construction Works Plan” shall be prepared that takes into consideration any final conditions of approval in accordance with the NSW Department of Water and Energy Guidelines for “*Controlled Activities – Outlet Pipes, Laying Pipes and Cable in Watercourses and In-stream Works*”. This Plan is to be approved and certified by the Project Ecologist and Council.

General Bushland Conditions of Consent

74. A Restriction-As-To-User shall be created under Section 88B of *The Conveyancing Act 1919* to preserve the remnant Blue Gum High Forest as mapped in the approved Vegetation Management Plan. No building work including paving, excavation or construction, no removal of native vegetation (trees, shrubs and groundcovers), no stockpiles, no changes to soil aeration or hydrological capacity, no open cut trenching,

no placement of temporary buildings, no parking or movement of machinery, no spillage/disposal of building waste, no agricultural uses are to occur within this area is to be considered the 'Restricted Development Area', except where approved by Council or part of the approved Vegetation Management Plan. The 'Restricted Development Area' shall be managed for the long term conservation of the Blue Gum High Forest.

75. A positive covenant shall be created under Section 88E of *The Conveyancing Act 1919* for the Blue Gum High Forest as mapped in the approved Vegetation Management Plan. This area is to be considered the 'Restricted Development Area'. The covenant shall specify:
- a) All landscaping and vegetation management including weed control shall be in accordance with the approved Vegetation Management Plan prepared by *Travers Environmental* dated September 2008 (to include the amendments in accordance with the Conditions of Consent) and the Village Management Plan.
 - b) Any approved tree removal within the 'Restricted Development Area' shall be undertaken by a qualified Arborist and undertaken in a manner that will have minimal impact on the Blue Gum High Forest remnant. Dead trees shall be left standing to provide native fauna habitat, except if located on the edge of the remnant adjoining any building, road or pedestrian path. Any replacement tree must be a species associated with Blue Gum High Forest and be grown from local provenance seed stock.
 - c) No development shall encroach within the 'Restricted Development Area', nor any clearing of indigenous vegetation, no on-site effluent disposal, nor any vehicle assess, nor any stock or agricultural activities.
 - d) High use open space areas shall be limited to land outside the 'Restricted Development Area'.
 - e) Trees within the 'Restricted Development Area' shall be inspected annually by a qualified Arborist, and treated to maintain tree health to ensure the stand of trees will be preserved.
 - f) Landscaping shall be only undertaken if determined by and under the supervision of a qualified ecologist or bush regeneration consultant, using Blue Gum High Forest species grown from local provenance seed stock.
76. Prior to the issue of the Construction Certificate the applicant shall submit to Council documentation to show that a qualified and experienced ecologist has been engaged to undertake all works within the approved Vegetation Management Plan and ensure the compliance of all environmental protection conditions of consent.

Traffic and Road Safety

77. To ensure safe vehicle and pedestrian access is available to the site, traffic signals, road widening works and pedestrian footpaths to bus stops at Old Northern Road shall be completed in accordance with the requirements of DA/753/2002 (as amended) and the NSW Roads and Traffic Authority prior to issue of the occupation certificate for any building on site.
78. The kerb returns at intersections of 5.5 and 4.5 metre wide roads are to be 6.0m radius minimum and be constructed with fully mountable kerb.
79. Clear zones near garages with frontage to 4.5m wide roads shall be provided as per traffic report (GTA consultants 15 April 2008).

Developer Contributions

80. 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 construction stages 2, 3, 4 and 5 shall be as follows:

Stage 2:	50 dwellings @ \$9,293.25	– Total \$ 464,662.50;
Stage 3:	57 dwellings @ \$9,293.25	– Total \$ 529,715.25;
Stage 4:	20 dwellings @ \$9,293.25	– Total \$ 185,865.00;
Stage 5:	23 dwellings @ \$9,293.25	– Total \$ 213,744.75;
Total	150 dwellings	

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.

Roads And Traffic Authority

81. The emergency access to Old Northern Road at the southern end of the development is to be limited to emergency use only.
82. Due to the proximity of Acacia Drive to the signalised intersection of Blue Gum Drive and Old Northern Road, a no exit sign for vehicles over 6 metres is to be posted at Acacia Drive at its intersection with Blue Gum Drive.
83. All pedestrian crossings are to be clearly sign posted and marked on the road to ensure safety for pedestrians.
84. Vegetation and proposed landscaping/fencing must not hinder sight lines to and from the proposed access driveways to motorists, pedestrians and cyclists.
85. Off street parking associated with the proposed development, including grades, parking bay dimensions, sight distance requirements, and turn paths are to be in accordance with AS 2890.1-2004.

Department Of Water and Energy General Terms of Approval

86. Before any works are commenced within 40m of any watercourse on or near the site, a Part 3A Permit must be obtained from the Department of Water and Energy (the Department).
87. Works are to be carried out in accordance with the plans and documents presented to the Department for the subject Development Application and these conditions.
88. All documentation and plans and bonds required as part of these conditions must be prepared and provided to the Department prior to the issuing of the Part 3A Permit.
89. All engineering, other structural works or natural landscaping proposed must be designed, constructed and operated by suitably qualified professionals, recognised in that specialised field. For any **VMP**, this relates particularly to bushland rehabilitation practices, and for any **WP**, this relates particularly in natural stream processes, design and rehabilitation practices. The designs and construction methods and activities are to result in NIL or minimal harm to aquatic and riparian environments and do not cause erosion, sedimentation, or increase flood levels of Protected Waters.
90. Erosion and sediment control measures are to be implemented prior to any works commencing at the site and must be maintained for as long as necessary after the completion of works, to prevent sediment and dirty water entering the watercourse/foreshore environment. These control measures are to be in accordance with the requirements of Council, and best to follow relevant management practices as outlined in the Landcom manual "*Managing Urban Stormwater: Soils and Construction – Volume 1*" (4th Ed., 2004) - the "*Blue Book*", or other suitable control measures to mitigate erosion where conventional measures are not adequate (such as within bed and banks of a watercourse).
91. The Part 3A permit from the Department is issued for works on FREEHOLD land only and is null and void for any works on Crown Land.
92. Evidence of Owner's Consent for all works over any lands within 40m of any watercourse is required prior to the issue of the Part 3A permit.
93. In the event that there is an inconsistency between the drawings, other documentation and the conditions herein, the interpretation that will result in the best outcome for the stabilisation of the Site and the subsequent rehabilitation and maintenance of the Site and Protected Land and Protected Waters, is to prevail. Such interpretation is to be applied in consultation with, and with the approval of, the Department.
94. The development is to satisfy all requirements of Council in relation to flooding, drainage, stormwater detention and water quality, **but in so doing**, must not compromise in any way the form and function of any works, on Protected Waters and in riparian zones required by these conditions.
95. Works shall not commence for the following, if a licence under the Water Act (1912) or the Water Management Act (2000) is required:
 - Install a pump for extraction of water from a surface and/or ground water source. The temporary extraction of water for establishment of vegetation in a **VMP** does not require a licence.

- Construct a dam.
 - Construct a levee.
 - Divert any part of Protected Waters.
 - Irrigate from any of the above.
96. Operations shall not damage or interfere in any way with:
- Vegetation and habitat on Protected Land on the Site outside the area approved.
 - The stability of adjacent or nearby bed or banks of Protected Waters.
 - The stability of Protected Waters and their associated environments.
 - The flow of Protected Waters.
 - The quality of Protected Waters.
 - Any pumps or structures in the vicinity (that are licensed under the Water Act 1912 or the Water Management Act 2000).
97. No piping, for the placement of bulk earthworks (including roads), of any watercourse is allowed.
98. Any permanent constructed basin/wetlands/flood compensatory area and their associated disturbed areas are not to be located in any riparian area in **or on-line** and be consistent with the Departmental guide: *Constructed Wetlands (and Detention Basins) – Keep Them Off-line Guideline*.
99. Any flood study, are to take into account the effects of the vegetation required in any **VMP and any other vegetation within the flood area**.
100. The design of any stormwater outlets (including from roads, buildings, constructed basin/wetlands, swales or other drainage) and their spillways must be a “soft engineering solution” and be consistent with the Departmental guide: *Stormwater Outlet Structures to Streams (For pipes, culverts, drains and spillways)*.
101. Points of constriction or any other places where scour is likely within or near any stream or any part of the riparian zones on the Site are to be suitably protected against scour using permanent rock scour protection (rip rap) or any other “soft engineering design solution. In the event that scour protection works not described in the approved plans are proposed, approval from the Department must be obtained prior to their construction and may require a **WP** and must be consistent with the Departmental guide: *Works and Watercourse Design Guideline*.
102. Wire mesh structures (mattresses and baskets), concrete, spray concrete, concrete grouting, and concrete grouting between rocks comprising rip-rap scour protection crib walling, masonry, car tyres and the like **are not permitted**.

103. Any works that involve any change (including realignment, stabilisation, naturalised enhancement etc) of any watercourse, must emulate a stable natural watercourse system that behaves as, and has the appearance of a stable natural stream system of the area (including floodplains, terraces and other typical natural features). Part of the form of the watercourse is to create meanders, suitable pool and riffle sequences, with suitable aquatic and terrestrial habitat.
104. The extent of the rehabilitation / restoration of Protected Land and/or Protected Waters are to be as indicated by a **WP** for all works that involve any change (including realignment, stabilisation, naturalised enhancement etc) of any watercourse. Rehabilitation / restoration, and watercourse form must be consistent with the Departmental guide: *Works and Watercourse Design Guideline*.
105. Following the completion of the physical works associated with any watercourse at the Site these works and all associated disturbed areas must be maintained for a period of at least **three (3) years** after practical completion, consistent with the Departmental guide: *Works and Watercourse Design Guideline*, particularly the maintenance and reporting criteria.
106. Any crossing structures, including utility crossings and associated works, must be located, designed and constructed consistent with the Departmental guides: *Watercourse Crossing Design & Construction Guideline* and *Pipe and Cable Laying Across Watercourses and Riparian Area Guideline*. The Department may require a **WP** depending upon the potential impact upon the watercourse and must be consistent with the Departmental guide: *Works and Watercourse Design Guideline*.
107. For any retaining walls and sea walls, their location design and construction must be consistent with the Departmental guide: *Works and Watercourse Design Guideline*.
108. Any accessways, (being roads, tracks, cycleways, pedestrian pathways or other form of accessway) that may be proposed for the Site, are to be normally located beyond the riparian zones and be consistent with the Departmental guide: *Design and Construction of Paths and Cycleways and Accessways along Watercourses and Riparian Areas Guideline*.
109. A permanent physical barrier, (such as a fence, pathway, road etc), to prevent inadvertent damage to riparian zones, is to be placed at their landward extent in all locations and be consistent with the Departmental guide: *How to Prepare a Vegetation Management Plan Guideline*.
110. There is to be no permanent or temporary excavation of, or placement of material on, protected land, or anything done that may detrimentally affect the flow of protected waters, and are not to be placed in any area that has existing native riparian vegetation that is identified as part of any riparian zone in any **VMP**.
111. Documentation that demonstrates a right of access to the site for a sufficient time to enable the full implementation and maintenance of any works, including any **VMP** and **WP**, and inspections, is to be provided to the Department by the owner. Such documentation is to be legally binding upon the land and its present and future owners until such time as the implementation and their maintenance of the works, including any **VMP and WP** are completed, and inspected, as approved by the Department. The instrument is to be in favour of the current owner or Council.

112. A riparian zone consisting of local native plant species shall be established and maintained in and adjacent to all Protected Waters, including beneath bridges, for their entirety within the Site. The extent of the riparian zones is to be:
- For watercourse A: at least 10 metres wide from the top of the bank on each side of the watercourse, measured horizontally and at right angles in accordance with the plans approved by 3A Permit issued for DA753/2003/B
 - For watercourse B: 10 metres wide on each side, measured horizontally and at right angles from the centreline of the watercourse for the full length of the site and in accordance with the plans approved by the 3A Permit issued for DA753/2003/B
113. All riparian zones at the site **must be rehabilitated** where they are affected by, or located adjacent to, or located within 10m of, any works on Protected Land that require a Part 3A permit, for the purposes of aiming at naturalised bed and bank stabilisation and giving adequate space for the natural functioning of the watercourse.
114. A **VMP** for Site rehabilitation that demonstrates protection of any remnant local native riparian vegetation at the Site and restore any riparian zones disturbed or otherwise affected by the development to a state that is reasonably representative of the natural ecotone of the protected waters system, to achieve sound naturalised watercourse and long term riparian area stabilisation and management by the enhancement/emulation of the native vegetation communities of the subject area is to be prepared, and be consistent with the Departmental guide: *How to Prepare a Vegetation Management Plan Guideline*.
115. Seed and propagule sources are to be from **local botanical provenance** (regarded as from as close as possible and from the same general habitat (same soil type, distance from watercourse, exposure etc)) is required consistent with the Departmental guide: *How to Prepare a Vegetation Management Plan Guideline*.
116. The riparian zone (and all areas and activities described in the **VMP** must be maintained for a period of at least **two (2) years** after final planting or where other revegetation methods are used, two years after plants are at least of tubestock size and are at the densities required by these conditions and with species richness as described in the **VMP**, and **three (3) years minimum** for those areas required for access and maintenance relating to any **WP** and being consistent with the Departmental guide: *How to Prepare a Vegetation Management Plan Guideline*, particularly the maintenance and reporting requirements.
117. The Part 3A permit holder must ensure that all works and activities at the Site do not compromise the implementation of the **VMP** in any way.
118. Any requirements for bushfire asset protection zones, including fire trails, are not to compromise in any way the extent, form or function of the riparian zones. Fuel reduced areas are to be located outside of riparian zones.
119. Any property boundary fence should generally be located beyond the riparian zones and be consistent with the Departmental guide: *How to Prepare a Vegetation Management Plan Guideline*.

120. As a pre-condition to the granting of any Part 3A permit, the applicant for a Part 3A permit will be required to provide a security deposit (bank guarantee or cash bond). The security deposit is to cover the cost, as approved by the Department, of completing selected works and activities listed in the previous GTA conditions in accordance with the conditions of the Part 3A permit.
121. Any bank guarantee is to be provided from a bank licensed pursuant to the Banking Act 1959 (Cth) and is to be provided in favour of the Department and it must be drawn up in the format required by the Department.

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, other relevant Council Policy/s and other relevant requirements. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

Principal Certifying Authority

- i. Before any construction works commence, you are required to appoint a Principal Certifying Authority as required by section 81A of the Environmental Planning & Assessment Act, 1979. The Principal Certifying Authority is responsible for ensuring that all the works are carried out in accordance with the approved plans and specifications.

Notifying Council of Commencement of Works

- ii. It is a requirement of the Environmental Planning and Assessment Act, section 81A(2)(c) that you notify Hornsby Council at least two (2) days prior to the intention to commence works.

Signs for Construction Sites

- iii. 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.

Signs for Demolition Sites

- iv. 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.
- v. 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.

Signs for Construction Sites

- vi. 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.

Construction Certificate –Engineering Works

- vii. 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 the existing roadworks and public drainage is required prior to the issuing of a construction certificate for these works.

Inspections – Engineering

- viii. All engineering work required this consent must be inspected at the “hold points” as nominated in the Hornsby Shire Council Civil Works Construction Specifications 1999.

Rainwater tanks

- ix. The installation of the rainwater tank and associated plumbing must be in accordance with Sydney Water’s *Guidelines for Rainwater Tanks on Residential Properties: Plumbing Requirements*, dated April 2003.

Tree Preservation Order

- x. 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, in-ground 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.

Threatened Species Conservation Act 1995

- xi. The applicant should be advised that the restricted development area contains Blue Gum High Forest which is listed as an Endangered Ecological Community under the *Threatened Species Conservation Act 1995*. The TSC Act prohibits the disturbance to threatened species, endangered populations and endangered ecological communities, or their habitat. Any actions that are outside this development consent would qualify as illegally picking or disturbing the habitat of Blue Gum High Forest and could render any person who carried out this action as liable for prosecution.'

NSW Department of Primary Industries

- xii. Any dredging and reclamation works approved by this application may require a permit from NSW DPI to authorise such activities. This application is to be obtained prior to such works being undertaken.

Note: It is an offence to dredge reclaim in any waters and/or affect marine vegetation without permits from NSW Department of Primary Industries.

**4 DEVELOPMENT APPLICATION - ALTERATIONS AND ADDITIONS TO AN EXISTING COMMUNITY FACILITY AND USE BY THE 'HORNSBY WOODWORKING MEN'S SHED'
HEADEN PARK 3X SINCLAIR AVENUE, THORNLEIGH**

Development Application No:	542/2008
Description of Proposal:	Alterations and additions to existing community facility and use by the 'Hornsby Woodworking Men's Shed'
Property Description:	Headen Park Lot 47, DP 35569, No. 3X, Sinclair Avenue, Thornleigh
Applicant:	Hornsby Shire Council
Owner:	Hornsby Shire Council
Statutory Provisions:	Open Space A (Public Recreation-Local)
Estimated Value:	\$120,000
Ward:	B

RECOMMENDATION

THAT Development Application No. 542/2008 for alterations and additions to an existing community facility and use of that facility by the 'Hornsby Woodworking Men's Shed' at Lot 47, DP 35569, No. 3X, Sinclair Avenue, Thornleigh (Headen Park) be approved subject to conditions of consent detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. The application proposes alterations and additions to the existing community facility at Headen Park to better accommodate the existing use of that facility by the Hornsby Wood Working Men's Shed.
 2. Council at its Planning Meeting held on 19 November 2008 considered Development Application No. 542/08 and resolved to defer the matter to allow an investigation into an alternative building design, lighting, landscaping, hours of operation and the impact of stormwater on adjoining properties.
 3. A Community, Cultural and Recreational Facilities Taskforce meeting was held on 25 November 2008 to consider the issues raised at the Council meeting. A copy of the Taskforce minutes is held at Attachment 3 to this report.
-

4. It is recommended that Council consider the minutes of the Taskforce Committee, the independent planning report prepared by Nexus Environmental Planning Pty Ltd and approve the application subject to the conditions held at Schedule 1.

HISTORY OF THE APPLICATION

On 19 November 2008, Council's Planning Meeting first considered the subject application and resolved:

- “1. *Consideration of Development Application No. 542/2008 for alterations and additions to an existing community facility and use of that facility by the 'Hornsby Woodworking Men's Shed' at Lot 47, DP 35569, No. 3X, Sinclair Avenue, Thornleigh (Headen Park) be deferred to allow investigation into:*
 - a. *An alternate building design that is of a more regular rectangular shape.*
 - b. *The installation of lighting and landscaping which reduces the opportunity for antisocial behaviour.*
 - c. *The hours of operation.*
 - d. *The potential impact of stormwater on adjoining properties.*
2. *A further report be prepared for Council's consideration no later than the first Planning Meeting in March 2009.”*

On 25 November 2008, the Taskforce considered the matter and provided comments in relation to the issues raised by Council. These matters are discussed in the following section of this report.

1. TASKFORCE DISCUSSION

A Community, Cultural and Recreational Facilities Taskforce meeting was held on 25 November 2008 and the following response was provided to the issues raised by Council:

“In relation to the resolution associated with the above DA, the Task Force made the following decisions/considerations last night.

- a. *(Whether) an alternate building design that is of a more regular rectangular shape (would be more appropriate).*

Decided to retain the current building design as described in DA/542/2008.

- b. *(Whether) the installation of lighting and landscaping which reduces the opportunity for antisocial behaviour (would be more appropriate).*

Supported the requirement install sensor lighting and suitable landscaping as required.

Additional conditions beyond those contained in Planning Report No. 213/08 are recommended requiring sensor lighting to be installed.

With respect to suitable landscaping, the landscape plan prepared by Council's Parks and Landscape Team shows the provision of small native screen trees along the southern boundary which are unlikely to provide opportunity for crime.

c. *(Clarification of) the hours of operation.*

Questioned why the DA, when lodged, nominated hours of use as 8am to 10pm yet the consent nominated 10am to 3pm Tuesdays and Fridays and the first and third Sundays of the month.

The recommended condition of consent with respect to the hours of operation was based on advice contained within the application with regard to the current hours of operation of the Men's Shed. Upon clarification, the application proposes hours of operation of 8am to 10pm 7 days a week. Whilst the Acoustic Report recommended that woodworking activities could take place between 7.00am to 10.00pm, it would not be appropriate to allow the proposed hours of operation of 8.00am to 10.00pm based on the site's close proximity to residential properties. However, it is considered appropriate that the previous recommended condition be modified to read as follows:

"15. Hours of operation for wood working activities shall be restricted to 9.00am to 5.00pm Monday to Friday and on no more than two occasions each calendar month on a weekend or public holiday between the hours of 10:00 am and 3:00 pm."

d. *The potential impact of stormwater on adjoining properties.*

Made no comment in relation to this issue."

The potential impact of stormwater was assessed as part of the original assessment of the application. Stormwater from the development would not adversely impact upon neighbouring properties.

2. ASSESSMENT

An assessment of the merits of the application was carried out by Nexus Environmental Planning Pty Ltd and is held at Attachment 2 to this report.

3. CONCLUSION

The proposal seeks approval for alterations and additions to the existing community facility at Headen Park to better accommodate the existing use of that facility by the Hornsby Wood Working Men's Shed.

Council considered the application at its meeting held on 19 November 2008 and resolved to defer the matter for the applicant to investigate various matters. The Taskforce considered the issues raised by Council and resolved to install lighting and landscaping to reduce the opportunity for antisocial behaviour.

It is recommended that Council approve the application in accordance with the assessment and recommended conditions of consent prepared by *Nexus Environmental Planning Pty Ltd* and held at Schedule 1 of this report.

ROD PICKLES
Manager - Assessment Team 2
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Minutes PLN213/08
2. Executive Manager's Report No. PLN213/08
3. Independent Town Planning Consultancy Report by Nexus Environmental Planning Pty Ltd

File Reference: DA/542/2008
Document Number: D01055673

SCHEDULE 1**Approved Plans and Supporting Documentation**

- 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>
SK-01, Issue B	Leech Harmon Architects	August 2008
SK-02, Issue B	Leech Harmon Architects	August 2008

<i>Document No.</i>	<i>Prepared by</i>	<i>Dated</i>
RV0241/DA/01/A	Shire of Hornsby, Parks and Landscape	August 2008

Building Code of Australia

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

Note: 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.

Fire Upgrading

- The existing building is to be upgraded to bring it into compliance with Parts C, D and E of the Building Code of Australia.

Council Property

- 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.
- 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.

Hours of Construction

- 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 Schedule

- 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

8. 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

9. 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.

Drainage

10. 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.
 - (b) Provide for drainage discharge to the existing drainage swale and be provided with a headwall and energy dissipater.
 - (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.
11. Roof and Wall construction of the proposed extension are to be constructed in accordance with the recommendations made in the Noise Impact Assessment – Extension to Headen Park Woodworking Men’s Shed prepared by Reverb Acoustics dated August 2008.
12. 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 in conjunction with the Site Plan prepared by Leech Harmon Architects dated April 2008, prior to excavation, and maintained during construction.

Operation of Centre

13. 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).
14. In accordance with the Noise Impact Assessment – Extension to Headen Park Woodworking Men’s Shed prepared by Reverb Acoustics dated August 2008 automatic door closers are to be fitted to the main doors to ensure they are not inadvertently left open.
15. Hours of operation for wood working activities shall be restricted to 9.00am to 5.00pm Monday to Friday and on no more than two occasions each calendar month on a weekend or public holiday between the hours of 10:00 am and 3:00 pm.

Lighting

16. For the purpose of providing safe pedestrian access, and to increase security of the premises, external motion sensor lighting shall be provided at the front entry of the building illuminating the pedestrian accessways. Such lighting is to be installed prior to issue of the Occupation Certificate.
17. All external lighting shall comply with Australian Standard 4282 – 1997 ‘*Control of the obtrusive effects of outdoor lighting*’.

- END OF CONDITIONS -

**5 DEVELOPMENT APPLICATION - MULTI-UNIT HOUSING DEVELOPMENT
COMPRISING TWO DWELLINGS AND SUBDIVISION
23 HILLS AVENUE, EPPING**

Development Application No:	1201/2008
Description of Proposal:	Erection of a two storey multi-unit housing development comprising two attached dwellings and subdivision of one lot into two lots.
Property Description:	Lot 19 DP 30584 (No. 23) Hills Avenue Epping
Applicant:	Residential Logistics
Owner:	Ms J H Shi
Statutory Provisions:	Residential A (Low Density) Zone
Estimated Value:	\$498,950
Ward:	C

RECOMMENDATION

THAT Development Application No. DA/1201/2008 for the erection of a two storey multi-unit development comprising two attached dwellings and subdivision of one lot into two lots at lot 19 DP 30584 (No. 23) Hills Avenue Epping be approved subject to conditions of consent detailed in Schedule 1 of this report.

EXECUTIVE SUMMARY

1. The application proposes the demolition of the existing dwelling, the erection of a two storey multi-unit housing development comprising two semi-detached dwellings and the subdivision of one lot into two lots.
 2. The proposed development is in non-compliance with Clause 14 of Hornsby Shire LEP 1994 in respect to the 500m² minimum area lot size development standard. The submitted objection to the standard is considered well founded, pursuant to SEPP 1 – Development Standards.
 3. The proposal generally complies with the relevant prescriptive measures of the Low Density Multi-Unit Housing DCP.
 4. There were no submissions received in respect of the application.
-

5. It is recommended that the application be approved.

THE SITE

The site comprises an existing dwelling house on an allotment on the eastern side of a cul-de-sac at the end of Hills Avenue Epping. The lot is irregular in shape, has an area of 992.7sqm and is of dimensions; 12.19m arc frontage, 44.875m northern side boundary, 53.405m southern side boundary and 32.645m rear boundary. The central part of the site has a width of 20m. The lot has an average fall of 6% to the western part of the northern boundary.

The existing dwelling house is a single storey weatherboard dwelling with a tiled roof. The surrounding properties include single and two storey dwellings including more recent larger brick and tile dwellings. A two storey semi-detached development opposite the site has been constructed on the allotment.

The site does not include any remnant bushland or significant trees.

A pedestrian pathway at the end of Hills Avenue provides access to a bus route on Carlingford Road.

THE PROPOSAL

The proposed development is for the demolition of the existing dwelling and erection of a 2 x two storey semi-detached dwellings each containing 4 bedrooms.

The proposal includes the Torrens title subdivision of one lot into two lots. Proposed lot 19A would have an area of 496.2m² and proposed lot 19B would have an area of 496.5m². Access to proposed lot 19A would be via right of way over proposed lot 19b.

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 one additional dwelling 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 Shire Local Environmental Plan 1994

The subject land is zoned Residential A (Low Density) under Hornsby Shire Local Environmental Plan 1994 (HSLEP). 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’, ‘multi-unit housing’ and ‘subdivision’ under HSLEP and is permissible in the zone with Council’s consent.

Clause 14 of HSLEP prescribes that the minimum lot size of development within the Residential A zone is 500m². The applicant has submitted an objection to the minimum lot size pursuant to State Environmental Planning Policy No. 1 – Development Standards, in respect to the proposed non-compliance of 496.2m² for lot 19A and 496.5m² for lot 19B. (Refer to discussion in Section 2.2 of this report).

Clause 15 of HSLEP prescribes that the maximum floor space ratio (FSR) of development within the Residential A zone is 0.4:1. The application satisfies this development standard.

2.2 State Environmental Planning Policy No. 1 – Development Standards

The applicant submitted an objection against the 500m² minimum lot size development standard under Clause 14 of HSLEP.

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 standards;*
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 to this application.

The applicant's grounds for the objection are as follows:

- *The allotments are sufficient in size to accommodate the proposed dwellings with an adequate level of residential amenity through the provision of private open space, landscaping, car parking, drying areas and driveway, as prescribed for low density residential development permissible in the zone.*
- *The proposed development complies with all other development control requirements, ie., site coverage, floor space ratio, landscaped area, private open space and setbacks.*
- *The proposed development provides adequate landscaping to provide screening between adjoining properties and soften the visual impact of hard surface areas.*
- *The variation to the minimum lot size is relatively minor (0.7%) and strict compliance would be unreasonable and unnecessary given the proposal complies with all other requirements for low density multi-unit housing.*
- *Refusal of the application would hinder attainment of the objectives of the EP&A Act for the orderly and economic use of land.*
- *No purpose would be served in preventing the development due to the minor numeric variation.*
- *The proposed multi-unit housing development achieves the desired outcome for development of the site and does not compromise the character of the locality established by the existing subdivision pattern.*

The proposed development complements the character of the area and is of satisfactory design to achieve the required residential amenity within a low density residential environment, having regard to the shape and size of the site. The proposal results in a minor numerical departure from the minimum lot standard (3.8m² – lot 19A and 3.5m² – lot 19B), which, having regard to the subject site and the proposed semi-detached dwellings, would not create an undesirable precedent. The submitted objection is considered well founded in that strict compliance is unnecessary as the objective of the standard has been achieved by the proposed development.

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

The proposed development has received certification for sustainable residential development under Certificate No. 2073305, pursuant to the SEPP.

2.4 Low Density Multi-Unit Housing Development Control Plan

The proposed development has been assessed having regard to the relevant performance and prescriptive design standards within Council's Low Density Multi-Unit Housing Development Control Plan (Housing DCP). The following table sets out the proposal's compliance with the prescriptive standards of the Plan:

Low Density Multi-Unit Housing Development Control Plan			
Control	Proposal	Requirement	Compliance
Density	Lot 19A – 496.2m ² Lot 19B – 496.5m ²	500m ²	No
Floor Space Ratio	Lot 19A – 0.376:1 Lot 19B – 0.314:1	0.4:1	Yes
Site Cover	Lot 19A – 27% Lot 19B – 25%	40%	Yes
Setbacks Lot 19A	Front – 12.0m West Side - >4.0m Rear – 9.2m	Front – 6.0m Side – 1.0m Rear – 3.0m	Yes
Setbacks Lot 19B	Front – 22.0m East Side - >3.3m Rear – 4.8m	Front – 6.0m Side – 1.0m Rear – 3.0m	Yes
Building Length	29m	24m	No
Wall Length	16.4m	10m	No
Height	7.5m	9m	Yes
Car parking	4 spaces	4 spaces	Yes
Private Open Space	Lot 19A – 206.3m ² Lot 19B – 194.8m ²	120m ²	Yes
Landscaping	Lot 19A – 65% Lot 19B – 49%	45%	Yes

As noted in the above table, the proposed development complies with the prescriptive development standards within Council's Low Density Multi-Unit Housing DCP other than 'density' and the design prescriptive measures for 'building length' and 'wall length'.

The DCP includes an erratum to the density element requiring low density multi-unit housing development to comply with the minimum lot size pursuant to Hornsby Shire LEP. The proposal does not comply with the 500m² minimum lot area size and the applicant has submitted an objection pursuant to State Environmental Planning Policy No. 1 – Development Standards. The objection is considered to be well founded (refer to discussion in Section 2.2 of this report).

The merits of the proposal in respect to the DCP are discussed as follows.

2.4.1 Design

Due to the siting of garages and front entrances of each unit, the proposed multi-unit housing development has the appearance of a two storey dwelling house in the streetscape and would not detract from the characteristic built form of the locality.

The proposed building does not comply with the design prescriptive measure not to exceed a total length of 24m. The non-compliance is considered satisfactory with regard to the shape and size of the site and the stepped semi-detached design which addresses the presentation of garaging in the streetscape and provides separation of private open space between the two dwellings.

The proposed northern elevation of the building does not comply with the prescriptive measure not to exceed a wall length of 10 without a physical break. The non-compliance would not impact on the streetscape and is considered acceptable in context with the overall design of the building and minimal impact on the adjoining two storey dwelling.

It is considered that in this instance, a development which does comply with the abovementioned development standards would result in an inferior outcome.

2.4.2 Setbacks

Proposed dwelling 19A has a front setback of 12.0m, a side setback of 4.0m to 6.5m and a rear setback of 9.2m.

Proposed dwelling 19B has a front setback of 22.0m, a side setback of 3.3m to 8.0m and a rear setback >4.8m.

The proposed setbacks are relatively large and include provision for private open space within the side boundary setbacks. The setbacks allow good spatial separation with neighbouring dwellings consistent with the low density character of the locality.

The proposed front setback maintains the predominant building line.

2.4.3 Solar Access

The proposed building would result in overshadowing of part of the adjoining single storey dwelling during the morning during winter months, however, would not result in non-compliance with the DCP requirement for 4 hours of sunlight to the courtyard on the adjoining property between 9am and 3pm.

Proposed dwelling 19A is north facing and complies with the DCP requirement for 3 hours of sunlight to living room windows. Proposed dwelling 19B has predominately south facing windows, however, the east facing family room window would have morning sun and the

private open space area off the family room would have 4 hours of sunlight access during winter, which is in compliance with the DCP.

2.4.4 Privacy

The proposed two storey dwellings are of design to minimise impact on privacy of neighbouring properties with bedroom accommodation on the first floor and minimal placement of first floor windows at the northern and southern elevation, limiting potential overlooking of neighbouring properties.

A condition is recommended for the front porch entry to Dwelling 19A to provide separation from the adjoining garage.

2.4.5 Stormwater Drainage

The proposed stormwater drainage on site drains to Council's system in the street. A condition is recommended that the system include stormwater detention to minimise runoff impacts on downstream water quality.

2.4.6 Car Parking

The proposal satisfies Council's DCP in respect to the provision of off-street car parking. However, the site has frontage to a cul-de-sac which provides limited on-street visitor car parking. Accordingly, it is considered appropriate that additional off-street car parking be provided to ensure that there are no parking conflicts. There is sufficient space on site outside building setback areas to provide a visitors space for each unit. A condition is recommended for a suitable landscaped surface area for one visitor parking space for each dwelling.

2.4.6 Residential Subdivision Development Control Plan

The proposed Torrens title subdivision accommodates the two proposed dwellings on the respective lots. The proposed lots satisfy the requirements of the DCP in providing for a low density residential living environment.

The non-compliance with the density prescriptive measures in respect to the minimum lot size of 500m², has been addressed in Section 2.2. of this report.

2.4.7 Waste Minimisation and Management Development Control Plan

The proposed demolition of the existing dwelling is subject to a Waste Management Plan submitted by the applicant, in accordance with the requirements of the DCP.

Conditions are recommended for implementation of the Waste Management Plan and for the construction of the development to be carried out in accordance with Council's waste minimisation and management guidelines.

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 development would necessitate the removal of six trees from the site. None of the trees to be removed are identified as 'significant trees' under Council's Tree Management Plan. The application has been supported by a horticulturalist survey that assesses the existing trees to be removed as in fair to very poor condition. It is considered removal of the nominated trees on the site is acceptable.

Council's assessment of the proposal included a detailed examination of the existing trees on site and determined six trees would be remaining after the development. Of the six trees retained, trees Nos. 4 and 11 are considered good and worthy of preservation and conditions are recommended for their protection.

The proposed landscaping includes appropriate screen planting for privacy and to complement the building.

It is considered removal of the nominated trees on the site is acceptable.

3.2 Built Environment

The proposed building is of brick construction with a tiled roof and includes fibre cement cladding to sections of the first floor elevation. The proposed slab on ground construction involves minor cut and fill works with excavation and fill less than 1m.

The proposed two storey building is of a design that would compliment the streetscape and the built form of the locality. The proposal is of similar scale to two x 2 storey semi-detached dwellings in the street and opposite the site. Notwithstanding the non-compliance with the minimum lot size pursuant to Clause 14 of Hornsby Shire LEP, the proposed development would not detract from the low density character of the area. The proposed development has adequate regard to the shape and size of the site in providing an appropriate low density residential living environment.

The proposal includes a single driveway access minimising the extent of paved surface area and increasing the area available for landscaping.

4. SITE SUITABILITY

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

The existing residential site is relatively level and is suitable to accommodate the proposed development.

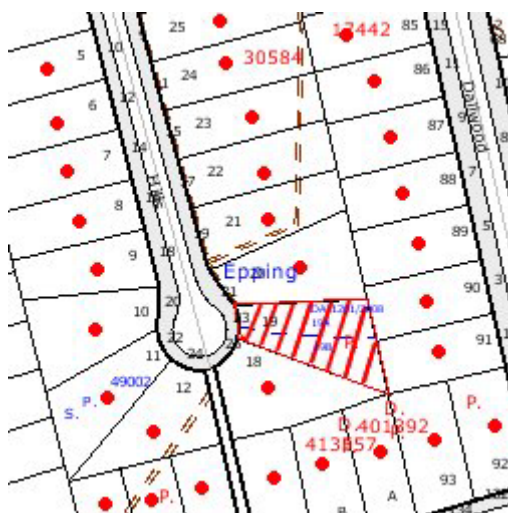
5. PUBLIC PARTICIPATION

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 17 September 2008 and 8 October 2008 in accordance with Council's Notification and Exhibition Development Control Plan. During this period, there

were no submissions received by Council. The map below illustrates the location of the properties notified of the application.



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 multi-unit housing development would be in the public interest.

7. CONCLUSION

Consent is sought to construct two x 2 storey multi-unit dwellings on the subject site and the subsequent Torrens title subdivision of the land into two lots.

The proposed development is in non-compliance with the minimum lot size area of 500sqm pursuant to Clause 14 of Hornsby Shire LEP. The submitted SEPP 1 objection to the minimum lot size area is supported as compliance with the standard is considered unnecessary, as the proposed design achieves the objective of the standard with regard to a low density residential environment.

The proposed development generally complies with the Low Density Multi-Unit Housing DCP, other than the design prescriptive measure for building length and wall length. The non-compliance is considered acceptable with regard to the stepped semi-detached design in minimising the impact of garaging on the streetscape and in providing separation for the private open space areas for each dwelling.

Having regard to the matters for consideration under the Act, approval of the application is recommended.

Note: At the time of the completion of this planning report, no persons have made a *Political Donations Disclosure Statement* pursuant to Section 147(3) of the Environmental Planning and Assessment Act 1979 in respect of the subject planning application.

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Locality Plan
2. Demolition Plan
3. Site Plan
4. Floor Plan
5. Elevations
6. Landscape Plan
7. Subdivision Plan
8. Shadow Diagram

File Reference: DA/1201/2008
Document Number: D01047594

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>Prepared by</i>	<i>Dated</i>
RL 1352 Demolition Plan	Masterton Homes	17.07.08
RL 1352 Site Plan	Masterton Homes	12.11.08
RL 1352 Floor Plans	Masterton Homes	17.07.08
RL 1352 Elevations	Masterton Homes	17.07.08
LPDA 09-63974/1C Landscape Plan	Conzept Landscape Architects	August 2008
RL 1352 Subdivision Plan	Masterton Homes	17.07.08
RL 1352 Shadow Diagram	Masterton Homes	17.07.08
RL 1352 Site Management Plan	Masterton Homes	17.07.08

<i>Document No.</i>	<i>Prepared by</i>	<i>Dated</i>
BASIX CERTIFICATES NOS. 207343S & 207330S	Luis Contigiani	28 July 2008
SCHEDULE OF FINISHES JOB NO 63974	Masterton Homes	7 July 2008

2. The driveway shall be constructed in coloured concrete or stencilled to minimise visual impact and to complement the development.
3. All boundaries behind the building line and courtyard areas shall be enclosed with 1.8m fences/screens/walls at the sole cost of the applicant. Provided that where an adjoining owner agrees to the provision of an alternate fence/screen/wall that fence/screen/wall shall be erected in lieu of the fence required by this condition. The fence/screen/wall is to be erected prior to the occupation of the dwellings or prior to the issue of the subdivision certificate, whichever occurs first.

Building Code of Australia

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

Hours of Demolition Works

5. 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

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

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

7.
 - a) 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.
 - b) 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.
 - c) 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.
 - d). 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.

Excavation & Backfilling

8. 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 issue of an occupation certificate or before if site conditions require.

Signs for Construction Sites

9. 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

10. 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.

Sydney Water

11. 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.

Note: Refer to www.sydneywater.com.au or telephone 13 20 92 for assistance.

Home Building Act 1989

12. The builder or person who does the residential building work must comply with the applicable requirements of Part 6 of the Home Building Act 1989 and must not contract to do any residential building work unless a contract of insurance that complies with that Act is in force in relation to the proposed work. A copy of the contract of insurance shall be submitted to Hornsby Council before any works commence.

Long Service Levy

13. 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 0.2% 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.

Dust Control

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

Utility Services

15.
 - (a) The applicant shall consult with the relevant Public Authorities and meet all costs involved in any alteration required to mains and services.
 - (b) The applicant shall ensure that all public utility service pipes, mains and conduits for the supply of all relevant services are provided to all allotments.
 - (c) The vehicular footway crossing and the driveway are to be designed and constructed in accordance with Hornsby Shire Council Civil Works Specifications and Australian Standard 3727.
 - (d) Construction at the property boundary, including fences and driveways, must not be carried out until footpath levels have been determined by Hornsby Council. The footpath levels must be obtained from Council prior to issue of any related construction certificate.

Drainage – On Site Stormwater Detention

16. Stormwater drainage pipe and OSD shall be designed to Hornsby Shire Council's Civil Works Specification and the following requirements:
- (a) The drainage system for the proposed development shall be designed with an on-site-detention system having a storage/ponding capacity of not less than 9.80 m³ and a maximum discharge, when full, of 20.30 litres per second (the 9.80 m³ of storage is additional to BASIX's requirement and is to be clearly indicated in the design plan if combined with a rain water tank). The system shall be designed by a Chartered Professional Civil/ Hydraulic Engineer to the following requirements.
 - (b) 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.
 - (c) A surcharge/inspection grate is to be located directly above the outlet.
 - (d) Where the OSD 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 load
 - (e) The on-site detention system within private or common courtyard areas must be designed so they do not impact on the amenity of the development or the use of such areas.
17. 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.

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 release of the subdivision plan.

Easements

18. Each of the proposed lots serviced by an interallotment drainage easement shall have burden and benefit created pursuant to Section 88B of the Conveyancing Act 1919.

Right of Access

19. Reciprocal rights of access shall be created over the proposed lots.

Works as Executed Plan

20. A works-as-executed plan prepared by a chartered engineer or a registered surveyor must be lodged with Hornsby Shire Council when the engineering works are complete, before the release of the Subdivision Certificate.

Council Property

21. The cost of repairing 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 paid for by the applicant/developer prior to release of the linen plan.

Trees

22. Prior to work commencing, tree protection fencing must be erected around the trees numbered 4 and 11 to be retained 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. Penalties apply for non-compliance.
23. 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 3m 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.
24. To protect good and worthy trees, the removal of trees numbered (4, 5, 6, 7, 11 & 12) marked on the plan (Tree Site Plan) or excavation or filling of soil or the placing of building materials or associated works (ie water, sewer, telephone, drainage) within 3 metre setback is forbidden without written approval from Council.

CONTRIBUTIONS PLAN

25. The payment of a contribution of \$19,205.85, for one additional dwelling, 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 contribution is based on a rate of \$19,205.85 per dwelling and it 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. 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.

Car Parking

26. To ensure adequate car parking one on-site visitor car parking space is to be provided for each dwelling and is to be constructed to form a grass/paved hard stand area within the landscaped area, as nominated in red on the approved plans.

Front Entry

27. To ensure an appropriate level of privacy between the two dwellings a fin wall is to be constructed providing separation between the porch entry of Dwelling 19A and the garage of Dwelling 19B, as nominated in red on the approved plans.

ADVICE

- A. Before any construction works commence, you are required to appoint a Principal Certifying Authority as required by section 81A of the Environmental Planning & Assessment Act, 1979. The Principal Certifying Authority is responsible for ensuring that all the works are carried out in accordance with the approved plans and specifications.
- B. 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 the 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 any compliance certificates to be relied upon
 - (b) Four (4) copies of the detailed engineering plans in accordance with the current Hornsby Shire Council's Civil Works - Design Specification. 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) The submission of a "Notice of Requirements under Section 73 of the Water Board (Corporation) Act 1994.
- C. All fees payable to Council as part of any Construction, Compliance or Subdivision Certificate or inspection associated with the development (including the registration of privately issued certificates) are to be paid in full.

Note: Any additional Council inspections beyond the scope of any Compliance Certificate needed to verify full compliance with the terms of this consent will be charged at the individual inspection rate nominated in Council's Fees and Charges Schedule.

- D. House numbering can only be authorised by Hornsby Shire Council. Before proceeding to number each lot/occupancy in the development, the allocation of numbers must be obtained from Council's Planning Division.

- E. 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.
- F Works to be undertaken within, or connecting to, public infrastructure, are to be designed and constructed in accordance with the current Hornsby Shire Council's Civil Works - Design and Construction Specification. Details are to be submitted with the application for a construction certificate to Hornsby Shire Council for approval.
- G. A separate application under the Local Government Act 1993 and Roads Act 1993 shall be submitted to Council for approval for the following:
- (a) replacement/ widening/changing of surface of the existing vehicular footway crossing servicing the proposed development.
 - (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.
- (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).
- H. Lodgement and approval of a subdivision certificate is required to authorise the Plan of Subdivision.

- END OF CONDITIONS -

**6 ERECTION OF A DWELLING-HOUSE ON A BATTLE-AXE ALLOTMENT
PROPOSED LOT 11, 66 & 68 CASTLE HOWARD ROAD BEECROFT**

Development Application No:	585/2008
Description of Proposal:	Erection of a dwelling-house on a battle-axe allotment
Property Description:	Lot Z DP 385117, Lot B DP 363878 66-68 Castle Howard Road, Beecroft
Applicant:	Mr A Morison
Owner:	Mr A & Mrs J Morison
Statutory Provisions:	Hornsby Shire Local Environmental Plan, 1994 Residential AS (Low Density-Sensitive Lands) Zone
Estimated Value:	\$398,800
Ward:	C

RECOMMENDATION

THAT Development Application No. 585/2008 at Lot Z DP 385117, Lot B DP 363878, 66-68 Castle Howard Road, Beecroft be approved, subject to the conditions of consent detailed in Schedules A and B of this report.

EXECUTIVE SUMMARY

1. The application proposes the erection of a part one and two storey dwelling-house on a battle-axe allotment yet to be registered with the NSW Department of Lands.
2. Council most recently considered this application at its Planning Meeting on 5 November, 2008 and resolved to defer consideration of the application to enable Council to assess amended plans tabled by the applicant at that meeting.
3. The applicant has commenced Class 1 proceedings in the Land and Environment Court against Council's deemed refusal of the application. The matter has been set down for callover on 19 December, 2008.
4. The application generally complies with the requirements of the Council's Dwelling House DCP and meets the objectives of the zone.

5. Seven submissions have been received in respect of the application.
6. It is recommended that the application be approved.

HISTORY OF THE APPLICATION

Council most recently considered this application on 5 November 2008 and resolved:

“THAT:

1. *Consideration of Development Application No. 585/2008 at Lot Z DP 385117, Lot B DP 363878, 66-68 Castle Howard Road, Beecroft be deferred to allow assessment of the amended plans which were tabled at the Planning Meeting held on 5 November 2008.*
2. *Following such assessment the matter be re-submitted to Council for further consideration.”*

SUPPLEMENTARY ASSESSMENT

Following Council’s Planning Meeting on 5 November 2008 amended plans were submitted showing alterations to the proposed dwelling. These changes involve a relocation of an upper ground floor lounge room window on the south-eastern elevation, to be positioned on the south-west elevation.

The amendments do not result in any material change in the design and would not result in a greater impact on the neighbouring properties than the development as originally proposed.

A detailed assessment of the merits of the application against the matters for consideration pursuant to Section 79C of the Environmental Planning and Assessment Act, 1979, including Section 79C(1)(d) *Public Consultation* has been undertaken in the Executive Manager’s previous reports to Council. The reports, together with supporting information, are held at Attachments 2, 3 and 4 to this report.

CONCLUSION

As detailed in the previous reports, the proposed dwelling-house is permissible within the zone under the Hornsby Local Environmental Plan, 1994 and complies with Council’s Dwelling House Development Control Plan.

It is considered that the objections received have been satisfactorily addressed. The proposal is in keeping with the established area with regard to its design and building setbacks, and is not inconsistent with the height of the existing dwelling-houses on the adjoining properties. The proposal would have minimal impacts on the amenity of the surrounding residential area and satisfies the relevant objectives and requirements of the Dwelling House DCP.

Having regard to the circumstances of the case, it is recommended that Council approve the application subject to the conditions of consent held at Schedule A and B.

SIMON EVANS
Manager - Assessment Team 1
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Locality Plan
2. Roof Plan
3. Floor Plans
4. Elevations
5. Shadow Diagrams
6. Site Plan
7. Minutes to Executive Manager's Report PLN188/08
8. Executive Manager's Report PLN188/08
9. Minutes to Executive Manager's Report PLN138/08
10. Executive Manager's Report PLN138/08

File Reference: DA/585/2008
Document Number: D01050682

SCHEDULE 1**SCHEDULE A****DEFERRED COMMENCEMENT**

- i. This consent does not operate until the following information is submitted to Council:
- a) Evidence that the plan of subdivision has been lodged with the *NSW Department of Lands* creating the proposed lot, is submitted to Hornsby Shire Council.

Upon Council's written satisfaction of the above information, the Conditions listed in Schedule B of development consent will apply:

SCHEDULE B**GENERAL CONDITIONS**

The conditions of consent within this notice of determination have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land.

Note: For the purpose of this consent, the term 'applicant' means any person who has the authority to act on or the benefit of the development consent.

Note: For the purpose of this consent, any reference to an Act, Regulation, Australian Standard or publication by a public authority must be taken to mean the gazetted Act or Regulation, or adopted Australian Standard or publication as in force on the date that the application for a construction certificate is made.

Approved Plans and Supporting Documentation

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

<i>Plan No.s</i>	<i>Drawn by</i>	<i>Dated</i>
A-01/C to A-05/C, A-06/A (Lot 11)	Stephen Wu Architects P/L	7/11/08
S.14382 -Trees on plan of subdivision (Lot 11)	P. S Graham	12/09/06

Important Note: *This development consent only permits the removal of tree(s) 17, 30, 33 and 35 as identified on Plan No. S14382 prepared by P.S. Graham and Associates dated 12/9/2006. The removal of any other trees requires separate approval under Council's Tree Preservation Order.*

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions of consent must be complied with prior to the issue of a 'Construction Certificate' by either Hornsby Shire Council or an accredited certifier. All necessary information to demonstrate compliance with the following conditions of consent must be submitted with the application for a construction certificate.

Bush Fire Protection

2. The development must be designed and constructed in accordance with *Australian Standard 3959 – Building in Bushfire Prone Areas*, ‘Level 1 Construction’.

Note: Timbers treated with an applied intumescent paint are no longer recognised by the Rural Fire Service as a fire retardant treated timber or a performance option to increase fire resistance.

3. Roofing must have leafless guttering and valleys must be screened with non corrosive mesh to prevent the build up of flammable material. Any material used should have a Flammability Index no greater than 5.

Building Code of Australia

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

Contract of Insurance (Residential Building Work)

5. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

Note: This condition does not apply to the extent to which an exemption is in force under Clause 187 or 188 of the Act, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4) of the Act, or to the erection of a temporary building.

Notification of Home Building Act 1989 Requirements

6. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notice of the following information:
 - a) In the case of work for which a principal contractor is required to be appointed:
 - i) The name and licence number of the principal contractor, and
 - ii) The name of the insurer by which the work is insured under Part 6 of that Act.
 - b) In the case of work to be done by an owner-builder:
 - i) The name of the owner-builder, and
 - ii) If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit

Note: If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifying authority for the development

to which the work relates (not being Council) has given Council written notification of the updated information.

Sydney Water – Quick Check

7. The application must be submitted to a *Sydney Water* ‘Quick Check Agent’ or ‘Customer Centre’ for approval to determine whether the development will affect any *Sydney Water* infrastructure, and whether further requirements are required to be met.

Note: Refer to www.sydneywater.com.au or telephone 13 20 92 for assistance.

Internal Driveways/Accessway

8. The internal driveway and parking areas must be designed in accordance with *Australian Standards 2890.1, 2890.2 and 3727* and the following requirements:-
 - a) The driveway must be a rigid pavement.
 - b) Grades in excess of 25% are not permitted and changes in grades must not exceed 8%.

Stormwater Drainage

9. The stormwater drainage system must be designed and constructed to the following requirements:
 - a) Satisfactorily drain rainfall intensities for an average recurrence interval of 20 years.
 - b) Be gravity drained into Council's street drainage system, piped drainage system or existing interallotment drainage system.

Drainage - On Site Detention

10. An on-site-detention system must be designed and constructed with a capacity of not less than 5 cubic metres and a maximum discharge, when full, of 8 litres/second. The system must be designed by a chartered civil engineer to the following requirements:
 - a) A surcharge/inspection grate is to be located directly above the outlet;
 - b) Stormwater discharge from the detention system is to be controlled via a 1 metre length of pipe not less than 50mm in diameter alternatively a stainless plate with sharply drilled orifice to correct diameter bolted securely over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to Council's gutter/stormwater pit;
 - c) 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;
 - d) An on-site detention system located within private or common courtyard areas must be designed so that it does not impact on the amenity of the development or the use of such areas.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent must be complied with prior to the commencement of any works on the site. The conditions have been imposed to ensure that the works are carried

out in such a manner that complies with relevant legislation and Council's policies and does not disrupt the amenity of the neighbourhood or impact upon the environment.

Sediment and Erosion Control

11. Sedimentation and erosion barriers are to be constructed to control the discharge of sediment from the site. The barriers 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 must be effectively maintained at all times during the course of construction and must not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.

Erection of Construction Sign

12. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a) showing the name, address and telephone number of the principal certifying authority for the work;
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
 - c) stating that unauthorised entry to the work site is prohibited.

Note: Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

Trees Protection Barriers

13. Trees numbered 11 and 12 must be protected by the construction of 1.8m cyclone chainmesh fencing erected around the trees at a distance of 3m from the trunk of the tree.
14. Trees numbered 19 and 20 must have their trunks protected by 2 metre lengths of 75 millimetres x 25 millimetres hardwood timbers spaced at 80 millimetres secured with galvanised wire (not fixed or nailed to the tree in any way).

DEVELOPMENT REQUIREMENTS DURING CONSTRUCTION

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. These conditions are to be complied with during the construction of the development on site.

Survey Reports

15. To ensure that the building is being erected in accordance with the approval, a registered surveyors report must to be submitted to the principal certifying authority at each level of the building (prior to the pouring of concrete) certifying that:

- a) the building, retaining walls and the like have been correctly positioned on the site;
- b) the finished floor level(s) are in accordance with the approved plans;

Tree Protection

16. Trees protection barriers, installed around trees numbered 11, 12 19 and 20 must be maintained throughout the course of construction.
17. Works within 3 metres from any trees required to be retained must be carried out under the supervision of qualified level 5 arborist and a certificate submitted to the Principal Certifying Authority certifying that the works would not impact on the health of the tree(s).

Hours of Construction

18. In order to maintain the amenity of adjoining properties, site works must be restricted to between 7.00 am and 6.00 pm, Monday to Friday and 8.00 am to 1.00 pm Saturday. Site works may extend to 4.00 pm on Saturdays if inaudible on residential properties. No work must be undertaken on Sundays or public holidays. Plant, goods or materials must not be delivered to the site outside the approved hours of site works unless otherwise approved by Council.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION

The following conditions of consent must be complied with prior to the 'Principal Certifying Authority' issuing an 'Occupation Certificate'.

Note: For the purpose of this consent, any reference to 'occupation certificate' must also be taken to mean 'interim occupation certificate'.

Fulfilment of BASIX Commitments

19. The applicant must demonstrate the fulfilment of BASIX commitments pertaining to the development. (*Clause 97A(3) of the Environmental Planning and Assessment Regulation 2000.*)

Creation of Easements, Restrictions or Covenants

20. A "Positive Covenant" and "Restriction as to User" must be created in favour of Council over the completed on-site detention system(s) in accordance with Council's standard wording to ensure the continued maintenance and performance of the stormwater management system. The lodgement of the "Positive Covenant" and "Restriction as to User" to Council must be accompanied by a "Works-as-executed Plan" prepared by a registered surveyor and certified by a design engineer.

Damage to Council Assets

21. Prior an Interim/Final Occupation Certificate being issued, a letter from Hornsby Shire Council must be obtained confirming that no damage has been caused to Council's assets.

22. The cost of repairing 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 to Hornsby Shire Council requirements at no cost to Council.

Landscaping

23. To maintain local tree canopy cover, three medium to large locally native trees are to be planted on the subject site. The planting location must not be within 3 metres of the foundation walls of the dwelling-house. The pot size is to be a minimum 25 litres and the trees must be maintained and protected until they reach the height of 3 metres. Trees must be locally indigenous, from local plant stock (preferably), reach a mature height greater than 12 metres and have a life span greater than 20 years.
24. To ensure that species indigenous to the Hornsby Shire are planted to reflect the bushland character of the area and enhance the local biodiversity, 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. Indigenous native trees proposed for replanting must be located more than 4 metres from any building structure.

OPERATIONAL CONDITIONS

The following conditions have been applied to ensure that the ongoing use of the land is carried out in such a manner that complies with relevant legislation and Council's policies and does not disrupt the amenity of the neighbourhood or impact upon the environment.

Bushfire Management

The following conditions have been applied to ensure that the building(s) is constructed and the land is managed in such a manner that is consistent with the aim and objectives of the *NSW Rural Fire Service* publication '*Planning For Bush Fire Protection 2006*'.

Note: Further information concerning planning for bush fire protection can be found at: www.rfs.nsw.gov.au.

Inner Asset Protection Zone

25. The entire property must be maintained as an 'Inner Protection Area' in accordance with the following:
- a) minimise fine fuel at ground level;
 - b) only retain vegetation that does not provide a continuous path to building(s) for the transfer of fire;
 - c) only retain shrubs and trees that do not form a continuous canopy and vegetation planted/cleared into clumps rather than continuous rows;

- d) do not plant vegetation that retains dead material or deposits excessive quantities of ground fuel;
- e) shrubs and trees are pruned or removed so they do not touch or overhang the building/s; and
- f) vegetation be maintained at a sufficient setback from the building/s so plants will not ignite the building/s by direct flame contact or radiant heat emission.

Bush Fire Access

26. Unrestricted access must be available around the property for fire fighting personnel at all times.

Bush Fire Landscaping Requirements

- 27 Landscaping must comply with the principles within Appendix 5 of *Planning for Bush Fire Protection 2006* and the following requirements:
- a) use of low flammability vegetation species comprising maximum tree cover of less than 30%, and maximum shrub cover less than 20%;
 - b) courtyards/pathways/lawns/ and/or ground cover plantings without flammable woodchips/mulch only to be 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 in contact with the building;
 - d) planting not to provide a continuous canopy to the building (i.e. trees or shrubs be isolated or located in small clusters);
 - e) use smooth bark species of trees species which generally do not carry a fire up the bark into the crown and avoid deciduous species, climbing species or species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
 - f) locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building.

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, other relevant Council Policy/s and other relevant requirements. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

Environmental Planning and Assessment Act 1979 Requirements

- 1 The Environmental Planning and Assessment Act 1979 requires you to:

- a) Obtain a construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 4645 4608.
- b) Nominate a principal certifying authority and notify Council of that appointment prior to the commencement of any works.
- c) Give Council at least two days notice prior to the commencement of any works.
- d) Have mandatory inspections of nominated stages of the construction inspected.
- e) Obtain an occupation certificate before occupying any building or commencing the use of the land.

Long Service Levy

- 2 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 must 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. (*clause 98(1)(b) of the Environmental Planning and Assessment Regulation 2000.*)

- END OF CONDITIONS -

7 ERECTION OF A DWELLING-HOUSE ON A BATTLE-AXE ALLOTMENT PROPOSED LOT 12, 66-68 CASTLE HOWARD ROAD, BEECROFT

Development Application No:	586/2008
Description of Proposal:	Erection of a dwelling-house on a battle-axe allotment
Property Description:	Lot Z DP 385117, Lot B DP 363878, 66-68 Castle Howard Road, Beecroft – Proposed Lot 12
Applicant:	Mr A Morison
Owner:	Mr & Mrs J Morison
Statutory Provisions:	Hornsby Shire Local Environmental Plan, 1994 Residential AS (Low Density Sensitive Lands) Zone
Estimated Value:	\$398,800
Ward:	C

RECOMMENDATION

THAT Development Application No. 585/2008 at Lot Z DP 385117, Lot B DP 363878, 66-68 Castle Howard Road, Beecroft be approved, subject to the conditions of consent detailed in Schedules A and B of this report.

EXECUTIVE SUMMARY

1. The application proposes the erection of a part one and two storey dwelling-house on a battle-axe allotment yet to be registered with the NSW Department of Lands.
 2. Council most recently considered this application at its Planning Meeting on 5 November, 2008 and resolved to defer consideration of the application to enable Council to assess amended plans tabled by the applicant at that meeting.
 3. The applicant has commenced Class 1 proceedings in the Land and Environment Court against Council’s deemed refusal of the application. The matter has been set down for callover on 19 December, 2008.
 4. The application generally complies with the requirements of the Council’s Dwelling House DCP and meets the objectives of the zone.
 5. Seven submissions have been received in respect of the application.
-

6. It is recommended, subject to conditions that the application be approved.

HISTORY OF THE APPLICATION

Council most recently considered this application on 5 November 2008 and resolved:

“THAT:

1. *Consideration of Development Application No. 586/2008 at Lot Z DP 385117, Lot B DP 363878, 66-68 Castle Howard Road, Beecroft be deferred to allow assessment of the amended plans which were tabled at the Planning Meeting held on 5 November 2008.*
2. *Following such assessment the matter be re-submitted to Council for further consideration.”*

SUPPLEMENTARY ASSESSMENT

Following Council’s Planning Meeting on 5 November 2008 amended plans were submitted showing alterations to the proposed dwelling on lot 12. These changes include:

- a) Lowering of the ridge line by 1.28m. This was achieved by:
 - (i) Lowering the floor height of the upper ground level to R.L. 116.10 from R.L. 116.50.
 - (ii) Lowering the ceiling height of the upper ground floor to R.L. 118.7 from R.L. 119.2.
 - (iii) Altering the pitch of roof from 30 degrees to 23 degrees.
- b) Replacing the glass balustrade on the terrace in front of the guest room above the garage with a 750mm deep planter.

The amended plans do not result in any material change in the design and would not result in a greater impact on the neighbouring properties than the development as originally proposed.

A detailed assessment of the merits of the application against the matters for consideration pursuant to Section 79C of the Environmental Planning and Assessment Act, 1979, including Section 79C(1)(d) *Public Consultation* has been undertaken in the Executive Manager’s previous reports to Council. The reports, together with supporting information, are held at Attachments 2 and 3 to this report.

CONCLUSION

As detailed in the previous reports, the proposed dwelling-house is permissible within the zone under the Hornsby Local Environmental Plan, 1994 and complies with Council’s Dwelling House Development Control Plan.

Amended plans recently submitted has reduced the height of the dwelling and provided a privacy screen to the first floor balcony. These changes further enhance the privacy and amenity of adjoining properties. The proposal is in keeping with the established area with regard to its design and building setbacks, and is not inconsistent with the height of the existing dwelling-houses on the adjoining properties. Subject to the minor resiting of the dwelling, as required by condition No. 3 the proposal would have minimal impact on the

natural and built environment and satisfies the relevant objectives and requirements of the Dwelling House DCP.

Having regard to the circumstances of the case, it is recommended that Council approve the application subject to the conditions of consent held at Schedule A and B.

Note: At the time of the completion of this planning report, no persons have made a *Political Donations Disclosure Statement* pursuant to Section 147(3) of the Environmental Planning and Assessment Act 1979 in respect of the subject planning application.

SIMON EVANS
Manager - Assessment Team 1
Planning Division

SCOTT PHILLIPS
Executive Manager
Planning Division

Attachments:

1. Locality Plan
2. Sections
3. Survey Plan
4. Site Plan
5. Elevations
6. Shadow Diagrams
7. Floor Plans
8. Minutes Executive Manager's Report PLN210/2008
9. Executive Manager's Report PLN210/2008
10. Minutes and Executive Manager's Report PLN139/2008

File Reference: DA/586/2008
Document Number: D01050698

SCHEDULE A**DEFERRED COMMENCEMENT**

- i. This consent does not operate until the following information is submitted to Council:
- a) Evidence that the plan of subdivision has been lodged with the *NSW Department of Lands* creating the proposed lot, is submitted to Hornsby Shire Council.

Upon Council's written satisfaction of the above information, the Conditions listed in Schedule B of development consent will apply:

SCHEDULE B**GENERAL CONDITIONS**

The conditions of consent within this notice of determination have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land.

Note: For the purpose of this consent, the term 'applicant' means any person who has the authority to act on or the benefit of the development consent.

Note: For the purpose of this consent, any reference to an Act, Regulation, Australian Standard or publication by a public authority must be taken to mean the gazetted Act or Regulation, or adopted Australian Standard or publication as in force on the date that the application for a construction certificate is made.

Approved Plans and Supporting Documentation

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

<i>Plan No.s</i>	<i>Drawn by</i>	<i>Dated</i>
A-01/C, A-02/C, A-03/D, A-04/C.	Stephen Wu Architects P/L	14/08/08
S.14382 -Trees on plan of subdivision	P. S Graham	12/09/06

Retention of trees

2. This development consent only permits the removal of tree(s) 47, 48, 49, 50 and 51 as identified on Plan No. S.14382 prepared by P.S. Graham and Associates dated 12/9/06. The removal of any other trees requires separate approval under Council's Tree Preservation Order.

Relocation of the proposed dwelling house

3. To preserve tree No. 40 the proposed dwelling house must be resited to the north-west so that the dwelling house stands 3.1 metres from this tree. The proposed height of the dwelling house and finished floor levels must remain as indicated on plans No.'s

A-01/C, A-02/C, A-03/D, A-04/C prepared by Stephen Wu Architects P/L dated 14/8/2008.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions of consent must be complied with prior to the issue of a 'Construction Certificate' by either Hornsby Shire Council or an accredited certifier. All necessary information to demonstrate compliance with the following conditions of consent must be submitted with the application for a construction certificate.

Bush Fire Protection

4. The development must be designed and constructed in accordance with *Australian Standard 3959 – Building in Bushfire Prone Areas*, 'Level 1 Construction'.

Note: Timbers treated with an applied intumescent paint are no longer recognised by the Rural Fire Service as a fire retardant treated timber or a performance option to increase fire resistance.

5. Roofing must have leafless guttering and valleys must be screened with non corrosive mesh to prevent the build up of flammable material. Any material used should have a Flammability Index no greater than 5.

Building Code of Australia

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

Contract of Insurance (Residential Building Work)

7. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

Note: This condition does not apply to the extent to which an exemption is in force under Clause 187 or 188 of the Act, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4) of the Act, or to the erection of a temporary building.

Notification of Home Building Act 1989 Requirements

8. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notice of the following information:
 - a) In the case of work for which a principal contractor is required to be appointed:
 - i) The name and licence number of the principal contractor, and
 - ii) The name of the insurer by which the work is insured under Part 6 of that Act.

- b) In the case of work to be done by an owner-builder:
 - i) The name of the owner-builder, and
 - ii) If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit

Note: If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notification of the updated information.

Sydney Water – Quick Check

9. The application must be submitted to a *Sydney Water* ‘Quick Check Agent’ or ‘Customer Centre’ for approval to determine whether the development will affect any *Sydney Water* infrastructure, and whether further requirements are required to be met.

Note: Refer to www.sydneywater.com.au or telephone 13 20 92 for assistance.

Internal Driveways/Accessway

10. The internal driveway and parking areas must be designed in accordance with *Australian Standards 2890.1, 2890.2 and 3727* and the following requirements:-
- a) The driveway must be a rigid pavement.
 - b) Grades in excess of 25% are not permitted and changes in grades must not exceed 8%.

Stormwater Drainage

11. The stormwater drainage system must be designed and constructed to the following requirements:
- a) Satisfactorily drain rainfall intensities for an average recurrence interval of 20 years.
 - b) Be gravity drained into Council's street drainage system, piped drainage system or existing interallotment drainage system.

Drainage - On Site Detention

12. An on-site-detention system must be designed and constructed with a capacity of not less than 5 cubic metres and a maximum discharge, when full, of 8 litres/second. The system must be designed by a chartered civil engineer to the following requirements:
- a) A surcharge/inspection grate is to be located directly above the outlet;
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 - c) 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;

- d) An on-site detention system located within private or common courtyard areas must be designed so that it does not impact on the amenity of the development or the use of such areas.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent must be complied with prior to the commencement of any works on the site. The conditions have been imposed to ensure that the works are carried out in such a manner that complies with relevant legislation and Council's policies and does not disrupt the amenity of the neighbourhood or impact upon the environment.

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 - c) stating that unauthorised entry to the work site is prohibited.

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15. Trees numbered 40 must be protected by the construction of 1.8m cyclone chainmesh fencing erected around the tree at a distance of 2.5 metres from the trunk of the tree.
16. Trees numbered 8, 10, 19, 20, 38 and 39 must have their trunks protected by 2m lengths of 75 millimetres x 25 millimetres hardwood timbers spaced at 80 millimetres secured with galvanised wire (not fixed or nailed to the tree in any way).

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17. To ensure that the building is being erected in accordance with the approval, a registered surveyors report must to be submitted to the principal certifying authority at each level of the building (prior to the pouring of concrete) certifying that:
- a) the building, retaining walls and the like have been correctly positioned on the site;
 - b) the finished floor level(s) are in accordance with the approved plans;

Tree Protection

18. Trees protection barriers, installed around trees numbered 8, 10, 19, 20, 38, 39 and 40 must be maintained throughout the course of construction.
19. Works within 3 metres from any trees required to be retained or located on an adjoining property must be carried out under the supervision of AQF Level 5 consulting arborist, horticulturalist or a landscape architect with arboricultural consulting experience and a certificate submitted to the Principal Certifying Authority detailing the method(s) used to preserve the tree(s) and certificate certifying that the works would not impact on the health of the tree(s).

Hours of Construction

20. In order to maintain the amenity of adjoining properties, site works must be restricted to between 7.00 am and 6.00 pm, Monday to Friday and 8.00 am to 1.00 pm Saturday. Site works may extend to 4.00 pm on Saturdays if inaudible on residential properties. No work must be undertaken on Sundays or public holidays. Plant, goods or materials must not be delivered to the site outside the approved hours of site works unless otherwise approved by Council.

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Note: For the purpose of this consent, any reference to 'occupation certificate' must also be taken to mean 'interim occupation certificate'.

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21. The applicant must demonstrate the fulfilment of BASIX commitments pertaining to the development. (*Clause 97A(3) of the Environmental Planning and Assessment Regulation 2000.*)

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22. A "Positive Covenant" and "Restriction as to User" must be created in favour of Council over the completed on-site detention system(s) in accordance with Council's

standard wording to ensure the continued maintenance and performance of the stormwater management system. The lodgement of the "Positive Covenant" and "Restriction as to User" to Council must be accompanied by a "Works-as-executed Plan" prepared by a registered surveyor and certified by a design engineer.

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24. The cost of repairing 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 to Hornsby Shire Council requirements at no cost to Council.

Landscaping

25. To maintain local tree canopy cover, three medium to large locally native trees are to be planted on the subject site. The planting location must not be within 3 metres of the foundation walls of the dwelling-house. The pot size is to be a minimum 25 litres and the trees must be maintained and protected until they reach the height of 3 metres. Trees must be locally indigenous, from local plant stock (preferably), reach a mature height greater than 12 metres and have a life span greater than 20 years.
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28. Unrestricted access must be available around the property for fire fighting personnel at all times.

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29. Landscaping must comply with the principles within Appendix 5 of *Planning for Bush Fire Protection 2006* and the following requirements:
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- END OF CONDITIONS -

ADVISORY NOTES

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- END OF ADVISORY NOTES-

8 CONSIDERATION OF DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS - DEPARTMENT OF PLANNING CIRCULAR

EXECUTIVE SUMMARY

On 13 November 2008, the Department of Planning (DOP) issued a planning circular notifying consent authorities that certain draft Environmental Planning Instruments (EPIs) are no longer to be taken into consideration under Section 79C(1)(a)(ii) of the *Environmental Planning and Assessment Act (1979)* (EPA Act). The circular advises that draft State Environmental Planning Policies (SEPPs), draft Regional Environmental Plans (REPs) and draft Local Environmental Plans (LEPs) which have not been gazetted within 3 years of exhibition are no longer to be taken into consideration when determining development applications. This direction is effective from 1 March 2009 and does not apply to Comprehensive LEPs.

The circular has implications for Hornsby Shire with respect to draft LEPs for proposed heritage conservation areas at East Epping and Essex Street, Mount Errington and Rosebank Avenue which were exhibited in 2002, 2003 and 2004 respectively and forwarded to the Department for gazettal. In 2004, the DOP indicated its unwillingness to gazette the draft LEPs until the Department had undertaken a review of heritage conservation areas and determined its position in consultation with the then NSW Heritage Office. In 2008, the Department advised Council that it should progress the draft LEPs as part of Council's Comprehensive LEP.

Currently the heritage significance of the draft heritage conservation areas is provided with a level of protection through Section 79(C)(1)(a)(ii) of the *EPA Act*. From 1 March 2009, Council will no longer be able to consider the draft LEPs for the proposed conservation areas in the assessment of relevant development applications.

It is recommended that Council forward a submission to the Department outlining concerns regarding the implementation of the circular and requesting gazettal of Council's draft LEPs as a matter of urgency.

PURPOSE

The purpose of this report is to advise Council of a Department of Planning circular regarding draft EPIs and to seek endorsement for a submission to be forwarded to the Department raising concerns regarding the implementation of the circular and requesting the gazettal of Council's draft LEPs as a matter of urgency.

BACKGROUND

Council at its meeting on 15 December 2004, considered Executive Manager's Report No. PLN357/04 concerning a decision by the DOP not to progress draft LEPs for heritage conservation areas pending a review of the conservation areas in conjunction with the then NSW Heritage Office. The report discussed the implications of the Department's decision in view of the three (3) draft LEPs for heritage conservation areas within the Shire currently

awaiting gazettal, including conservation areas at East Epping and Essex Street, Mount Errington (Hornsby West Side) and Rosebank Ave (Epping) (copies attached).

Council at its meeting on 2 November 2005, considered Executive Manager's Report No. PLN304/05 concerning a direction from the Department that Council should investigate the progression of the heritage conservation areas as part of its Comprehensive LEP instead of progressing amendments to the existing Hornsby Shire Local Environmental Plan (HSLEP) 1994.

In response to the DOP's advice, Council made representations to the Minister for Planning seeking progression of the draft LEPs prior to gazettal of the Comprehensive LEP. In August 2006, the Department advised that draft LEPs for heritage conservation areas would likely be progressed once Council's housing targets had been finalised as part of the Metropolitan Strategy and preparation of the Subregional Strategy. Council's targets were endorsed by Council on 16 August 2006.

In May 2008, Council wrote to the DOP advising that should the Minister not gazette the draft LEPs prior to the completion of Council's Comprehensive LEP, it is Council's intention to incorporate the provisions of the draft LEPs into Council's Comprehensive LEP.

In October 2008, in the third and final part of its Report investigating corruption allegations affecting Wollongong City Council, the Independent Commission Against Corruption (ICAC) recommended that the DOP limit the potential for misuse of draft LEPs and draft DCPs. Recommendation 10 of the Report requires that the Department consider issuing new advice to NSW councils in relation to the legal status of draft and unadopted LEPs when considering development applications.

On 13 November 2008, the DOP issued Circular PS 08 – 013 (copy attached) advising consent authorities that certain draft EPIs (including draft SEPPs, draft REPs and draft LEPs) not be taken into consideration when determining development applications. From March 2009, draft EPIs that have not been gazetted within three years of exhibition should not be considered in determining development applications in terms of section 79C(1)(a)(ii) of the *EPA Act*.

DISCUSSION

This report discusses the DOP planning circular concerning the status of draft EPIs and its implications for Hornsby Shire.

Circular PS 08 – 013 – Consideration of draft EPIs

The *EPA Act* permits draft EPIs to be taken into consideration when determining development applications provided the draft has been placed on public exhibition. The intent of ICAC's recommendation, and in turn the planning circular, is to prevent the misuse of draft LEPs, where because of the expiration of time since exhibition, the draft LEPs are no longer consistent with Council policy. In Wollongong Council's example, various versions of draft LEPs were still being used as matters for consideration and subsequently determination, even though they were inconsistent with a new policy which had been developed with the intention of superseding these drafts.

The circular informs consent authorities that draft EPIs exhibited prior to 1 March 2006 and which have not been gazetted, shall not be considered in relation to development applications in terms of Section 79C(1)(a)(ii) of the *EPA Act*. Additionally, the circular notifies consent

authorities that any draft instruments which have not been made within three years of exhibition, have been deferred indefinitely or have not been approved, and are no longer to be taken into consideration by consent authorities when determining development applications. This direction is effective from 1 March 2009, but does not apply to Comprehensive LEPs.

Implications for Hornsby Shire

From March 2009, the following draft EPIs will no longer be considered pursuant to Section 79C(1)(a)(ii), in determining development applications within Hornsby Shire.

Draft SEPPs

Draft SEPP (Application of Development Standards) (2004): The draft SEPP was exhibited from 10 June to 18 July 2004. The draft SEPP proposes to replace the current provisions contained within SEPP No.1 – Development Standards. The draft SEPP was intended to provide clearer and tighter criteria that development applicants must meet if they wish to vary a development standard and placed further onus on the applicant to justify variations.

When a Comprehensive LEP is gazetted, the current SEPP will cease to apply to that local government area. In its place the provisions of Clause 4.6 of the State Government's Template Instrument, "*Exceptions to development standards*" will provide clearer and tighter criteria that development applicants must satisfy before a consent authority can consider a variation to a standard.

Draft SEPP No. 66 –Integration of Land Use and Transport: The draft SEPP was exhibited from 14 September to 14 December 2001. The draft SEPP proposes to introduce in respect of EPI and DCP preparation and development assessment, provisions aimed at improving accessibility and transport choice, moderating growth in travel by car, supporting efficient and viable public transport services and providing for the efficient movement of freight.

Similar principles will continue to be matters for consideration by Council through a variety of mechanisms including the Metropolitan Strategy, the draft North Subregional Strategy, the Department's Directions issued under Section 117 of the *EPA Act*, SEPP Infrastructure (2007) and Council's Triple Bottom Line sustainability assessment.

There are no significant implications for Hornsby Shire which result from the two (2) SEPPs no longer being able to be considered under Section 79(c)(a) of the *EPA Act*.

Draft Regional Environmental Plan

There are no draft REPs affecting Hornsby Shire.

Draft LEPs

Draft LEP (Amendment No. 76) - East Epping and Essex Street Heritage Conservation Area: The draft LEP was exhibited from 2 July to 30 August 2002 and was forwarded to the Department for gazettal in January 2003. The draft LEP proposes to two heritage conservation areas in the vicinity of Chester, Surrey, Oxford, Sussex and Essex Streets and Norfolk Road, Epping. The draft LEP also proposes the listing of 14 heritage items located within Dorset Street, Essex Street, Norfolk Road, Oxford Street, Surrey Street and Norfolk Road.

The establishment of the conservation area and the identification of heritage items was the recommendation of an independent consultant review completed by Tropman and Tropman Architects in 2001. The review identifies two potential heritage conservation areas within the study area that exhibit particular amenity values and historical significance. The review also identified a number of contributory heritage items throughout the study area that are enhanced by intact surrounding houses from the Federation and Inter-War periods.

Draft LEP (Amendment No. 84) - Mount Errington (Hornsby West Side) Heritage Conservation Area: The draft LEP was exhibited from 6 August to 12 September 2003 and was forwarded to the Department for gazettal in April 2004. The draft LEP proposes an extension to the existing Hornsby West Side Heritage Conservation Area.

The establishment of the extended conservation area was the recommendation of an independent consultant review completed by Tropman and Tropman Architects in 2002. The review concludes that most of the houses have designs dating from the Federation and Inter-War periods, with features that unify the character of the area and contribute to the heritage fabric for which the area is significant. The Review recommends that the boundaries of the existing conservation area be adjusted to include all properties that contribute to the heritage significance of the Hornsby West Side Conservation Area and is based on the original 1886 and 1987 subdivision surveys.

Draft LEP (Amendment No. 86) - Rosebank Avenue Heritage Conservation Area: The draft LEP was exhibited from 4 February to 5 March 2004 and was forwarded to the Department for gazettal in July 2004. The proposed conservation area comprises property Nos. 1-21 and 2-18 Rosebank Avenue, Epping.

The establishment of the conservation area was the recommendation of an independent consultant review undertaken by CPC Consulting in 2003. The review found Rosebank Avenue to be a fine representative example of an inter-war housing estate, largely intact in terms of retaining its historical subdivision pattern, its natural features, its built fabric and landscaping. Given its level of intactness and integrity, the review determined Rosebank Avenue to be of high local heritage significance.

The planning circular has the effect of removing from the list of matters for consideration under Section 79(c)(a), the proposed draft heritage conservation areas. Each of these draft LEPs has been exhibited, adopted by Council and forwarded to the DOP for gazettal. The gazettal of the draft LEPs has been delayed by the Department since 2004 and more recently the Department has advised that they should be progressed as part of Council's Comprehensive LEP which is anticipated to be gazetted in 2011.

Council has invested significant resources, both financial and staff hours, into the studies that informed the preparation of the draft LEPs. Extensive community consultation has also been undertaken throughout the process. In the period since Council has resolved to forward the draft LEPs to the DOP for gazettal, Council has consistently applied the provisions of the draft Plans in the assessment of relevant development applications. In the case of the draft East Epping Heritage Conservation Area, Council has successfully defended the validity and integrity of the draft LEP in the Land and Environment Court.

Deferral of the consideration of the heritage qualities of the draft conservation areas until such time as Council prepares its Comprehensive LEP may enable proponents of development within the subject areas to progress development applications which are inconsistent with the identified heritage values and streetscape qualities of the areas. Inappropriate development within the proposed heritage conservation areas in the period

prior to the implementation of the Comprehensive LEP could impact on the long term objective of conserving the heritage values and streetscape qualities of the areas. This may also create considerable angst in the community which has been generally supportive of the establishment of the heritage conservation areas.

Therefore, it would be appropriate for Council to forward a submission to the DOP raising concerns that the implementation of the planning circular will undermine Council's strategic framework for the establishment of heritage conservation areas. The submission should also request that the draft LEPs be gazetted as a matter of urgency.

TRIPLE BOTTOM LINE SUMMARY

Triple bottom line is a framework for improving Councillor decisions by ensuring accountability and transparency of social, environmental and economic factors. It does this by reporting upon councils 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.

POLICY IMPLICATIONS

Draft EPIs which have not been gazetted within three years of their exhibition will no longer be able to be taken into consideration by Council under Section 79C(1)(a)(ii) of the *EPA Act*.

CONCLUSION

The DOP has issued a planning circular that removes as part of Council's considerations under Section 79C(1)(a)(ii) of the *EPA Act*, draft LEPs which have been exhibited more than three years ago and which have not yet been gazetted. This includes draft LEPs for proposed conservation areas at East Epping and Essex Street (Epping), Mount Errington (Hornsby West Side) and Rosebank Avenue (Epping).

Currently the conservation significance of the draft heritage conservation areas is provided with a level of protection through Section 79(C)(1)(a)(ii) of the *EPA Act*. From 1 March 2009 until the gazettal of Council's Comprehensive LEP, Council will no longer be able to rely upon Section 79(C) in respect of the protection of the proposed conservation areas.

It is recommended that Council make representations to the Department outlining concerns regarding the implementation of the circular and requesting the gazettal of the draft LEPs as a matter of urgency.

RECOMMENDATION

THAT Council make representations to the Department of Planning:

- A. Raising concerns that the implementation of planning circular PS 08-013 will undermine Council's strategic framework for the establishment of heritage conservation areas.
- B. Requesting that draft LEPs for proposed heritage conservation areas at East Epping and Essex Street (Amendment No. 76), Mount Errington (Amendment No. 84) and Rosebank Avenue (Amendment No. 86) be gazetted as a matter of urgency.

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Attachments:

1. Planning Circular PS 08-013
2. HSLEP (Amendment No.76) - East Epping and Essex Street Heritage Conservation Area
3. HSLEP (Amendment No.84) - Mount Errington (Hornsby West Side) Heritage Conservation Area
4. HSLEP (Amendment No.86) - Rosebank Avenue Heritage Conservation Area

File Reference: F2004/07218

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9 STRATEGIC PLANNING PROGRAMME REVIEW - 2009

EXECUTIVE SUMMARY

At its meeting on 19 December 2007, Council adopted the current Strategic Planning Programme. The majority of projects scheduled to be completed under the Programme by December 2008 have been completed or are nearing completion.

An annual review of the Programme is required to ensure it is consistent with Council's strategic planning priorities. An amended Strategic Planning Programme is attached for Council's consideration.

PURPOSE

The purpose of this report is to review the Strategic Planning Programme and seek endorsement of a revised Programme for 2009.

BACKGROUND

The Town Planning Services Branch within the Planning Division of Council is responsible for strategic town planning initiatives in accordance with the Strategic Planning Programme. The Programme is adopted by Council and sets out the major projects of the Branch.

At its meeting on 19 December 2007, Council considered Executive Manager's Report No. PLN318/07 on the Strategic Planning Programme and resolved that:

1. *The 2008/2009 Strategic Planning Programme attached to Executive Manager's Report No. PLN318/07 be adopted.*
2. *A six monthly report be prepared for Councillors providing an update on the Strategic Planning Programme.*

In accordance with Council's resolution, Executive Manager's Report No. PLN179/08 was presented to Council at its meeting on 20 August 2008. The report provided Council with an update on the status of strategic planning projects. Council resolved to:

1. *Note the contents of Executive Manager's Report No. PLN179/08 concerning the status of Strategic Planning Projects currently being undertaken by the Town Planning Services Branch in accordance with the Strategic Planning Programme.*
2. *Consider the priority of Strategic Planning Projects in the December review of the Strategic Planning Programme.*

A copy of the adopted Programme is attached (Attachment A). A summary of the projects under the Programme is also attached (Attachment B).

This report enables Council to determine the priorities for strategic planning over the current Council term. The Programme is reviewed annually to enable Council to reconsider priorities

as issues evolve and to provide Council with an update on the achievements over the preceding year. An update on the progress of the Programme is presented to Council in the middle of the year.

DISCUSSION

The remainder of this report considers the current Strategic Planning Programme, other projects and a revised Programme.

2008 Strategic Planning Programme

The current Strategic Planning Programme is divided into the following sections:

Local Environmental Plans: Six LEP projects were identified for completion in 2008. The preparation of a Comprehensive LEP for Hornsby Shire is also identified to be progressed over the next three years.

Development Control Plans: Five DCP projects were identified for completion in 2007. The preparation of a Comprehensive DCP for Hornsby Shire is also identified to be progressed over the next three years.

Studies: Three studies were identified for completion in 2008, with a further project scheduled for completion in 2009.

Miscellaneous: Four miscellaneous projects were identified for completion in 2008. These projects are annual projects, such as Heritage Week which occurs in April of each year.

Management Plan Projects: The Programme incorporates three projects identified in Council's strategic intent document. One project was identified for completion in 2008.

New Projects: Six new projects were included on the Strategic Planning Programme to be commenced in 2008. However, no projects were identified for completion in 2008.

Attachment C summarises the status of the projects under the current Programme. The following projects have been completed:

- Heritage Review Stage 3 – Review of Items LEP;
- Kangaroo Point LEP;
- Acid Sulphate Soils LEP;
- 30-30A Edgeworth David Avenue LEP;
- Kangaroo Point DCP amendments;
- Acid Sulphate Soils DCP amendments;
- Community Uses DCP Review; and
- Foreshores Planning Provisions Review.

The following project is nearing completion:

- Amendments LEP (2007) which proposes to:
 - rezone St Judes car park;
 - rezone Landcom sites;
 - permit a pharmaceutical facility at Moores Road; and

- rezone a Department of Health site at Pennant Hills.

The LEP has been forwarded to the DOP for gazettal.

The following projects have been adopted for exhibition or have been exhibited:

- Heritage Review Stage 4;
- Ku-ring-gai and Hornsby Subregional Employment Study;
- Amendments LEP (2008) which proposes to:
 - rezoning property No. 5 Thornleigh Street, Thornleigh;
 - implementing the recommendations of the Open Space Land Acquisition Review;
 - rezoning property No. 122X Berowra Waters Road, Berowra Heights;
 - rezoning Lot 100 DP 1053594 Pennant Hills Road, Normanhurst;
 - rezoning properties Nos. 180-190 Pennant Hills Road, Thornleigh; and
 - implementing the recommendations of the Foreshores Planning Provisions Review.
- Business Lands DCP Amendments; and
- River Settlements DCP Amendments.

The other projects are in various states of preparation, exhibition or finalisation as summarised in Attachment C.

Projects Outside the Strategic Planning Programme

The Town Planning Services Branch has also undertaken a number of projects outside the Strategic Planning Programme, including:

- Reporting on State legislation, including:
 - SEPP (Infrastructure) 2007;
 - Standard Instrument (Local Environmental Plans) Amendment Order 2007;
 - NSW Draft Codes for Exempt and Complying Development; and
 - Environmental Planning and Assessment Amendment Act 2008 (the Amendment Act) to implement the State Government's Planning Reforms.
- Reporting on the State Government's Discussion Paper titled "*Improving the NSW Planning System*" and the Submissions Report;
- Reporting on the project brief and terms of reference for the Epping Town Centre Study 2008;
- Evaluating the implications of draft Baulkham Hills LEP 2005 proposing to rezone lands at Carlingford;
- Reporting on the findings of the Independent Expert Panel's Review of the NSW Heritage Act;
- Evaluating a request from the National Trust of Australia (NSW) for funding towards its operations and projects;
- Reporting on the outcome of proceedings in the NSW Land and Environment Court concerning Aboriginal land claims within Hornsby Shire;
- Providing input, and assisting in, coordinating legal actions being progressed by Council concerning the acquisition of Hornsby Quarry;

- Evaluating nominations for the vacant voluntary community representative position on the Hornsby Shire Heritage Advisory Committee;
- Preparation of a submission for the Keep Australia Beautiful (NSW) 2008 Sustainable Cities Award for Heritage Management by a Metropolitan Council for which Council was the winner.

The Branch has also assisted other Divisions in completing projects, including:

- State of the Environment Report - assist Environment Division;
- Climate Change Adaptation Plan - assist Environment Division; and
- Estuary Management Plan – assist Environment Division (on going project).

Other Projects

A number of other projects have arisen as a result of Council resolutions, consideration of development applications, requests from other Divisions or State Government initiatives. These projects should be incorporated into the Strategic Planning Programme and include:

- Epping Town Centre Study;
- Landcom sites LEP; and
- Amendments LEP (2009).

The timing of these projects will be required to be determined having regard to the priority of other projects.

Revised Strategic Planning Programme

A Revised Strategic Planning Programme has been prepared on the basis of this report and is attached for Council's consideration (Attachment D). A larger scale colour copy of the Strategic Planning Programme has been circulated to Councillors by memorandum.

The Programme aims to prioritise projects that facilitate the preparation and timely delivery of Council's Comprehensive LEP and DCP in accordance with the State Government's Planning Reforms. In addition to the translation of Council's current planning controls into the Standard LEP Template format, the major projects being progressed include the Housing Strategy and Subregional Employment Study. These projects are essential to ensure that Council demonstrates in the Comprehensive LEP that planning controls are in place to address the dwelling and employment targets for the Shire under the *Metropolitan Strategy* and *draft North Subregion Strategy*. The major amendments to the current Programme include:

- Incorporating the preparation of the Epping Town Centre Study.
- Including the preparation of an amendments LEP for 2009. In accordance with the requirements of the State Government's planning reforms, Councils are encouraged to avoid progressing minor amendments to existing LEPs and spot rezonings. Accordingly, Council has prepared annual amending LEPs in 2007 and 2008. A further amendments LEP has been included for progression in March 2009.

- Incorporating a review of development controls for multi-unit housing and consolidation of controls for the river settlements for inclusion in Council's Comprehensive DCP.
- Incorporating the progression of an LEP to rezone sites that were the subject of the Landcom Ecologically Sustainable Development Study should the Metropolitan Local Aboriginal Land Council receive title to the lands.
- Postponing the review of controls for Wisemans Ferry Village, Cherrybrook and Environmental Management Plans to enable resources to be allocated to the new projects. Furthermore, the review of the Cherrybrook DCP was to focus on the proposed location of the Franklin Road Station as part of the North West Metro which has now been deferred.

The timeline for each project provides an estimate of the time required to complete the project. It is not possible, nor appropriate, to pre-empt the findings of any study and the likely implications prior to its preparation, nor can Council always accurately predict the likely level of community interest in a project. Accordingly, the Programme is dynamic as the timeline can be impacted upon by additional consultation, the project being expanded or competing priorities.

The completion of some projects has been delayed as a consequence of input from the State Government. For example, the exhibition of the Ku-ring-gai and Hornsby Subregional Employment Study was delayed as the DOP advised that it was concerned that the Study recommendations for the Dural Service Centre may be contrary to State planning policy and therefore, did not support exhibition of the Study. The Department subsequently endorsed the Study for exhibition subject to an addendum noting that the Study provides Strategic direction for the future role and function of employment lands. Following 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 centres with the Subregion.

The progression of the Amendments LEPs for 2007 and 2008 have also been delayed as a result of input by the DOP. At its meeting on 18 June 2008, Council resolved to forward the Amendments LEP 2007 to the Department for Gazettal. However, Council is still awaiting legal advice from the Department before the LEP can be forwarded to the Minister for gazettal. At its meeting on 4 June 2008, Council resolved to seek certification from the Department to enable exhibition of the Amendments LEP 2008. Council is still awaiting certification from the Department.

Considerable staff and financial resources have been allocated to responding to Councillor and resident questions concerning the acquisition and future use of Hornsby Quarry. Staff have also briefed Council's solicitor and Senior Counsel to progress legal actions concerning the acquisition of the Quarry. Staff have also reported to Council providing updates on the legal proceedings.

In some instances, projects have been delayed as a consequence of new projects being incorporated into the Programme or competing priorities. For example, the Town Planning Services Branch has been responsible for attending project control group meetings and preparing a series of reports to Council concerning the Epping Town Centre Study. The purpose of the Epping Study is to explore the potential for the Centre to accommodate increased residential and employment growth to fulfil its role as a Town Centre in the

Metropolitan context. The project has been delayed until an application can be made for monies to progress the Study under the next round of the Planning Reform Funds.

Additionally, study projects often recommend the preparation of amendments to the HSLEP 1994 and Council's DCPs. These recommendations result in additional projects being incorporated into the Programme to implement the findings of a study. This can extend the overall timeframe of a project. For example, the Foreshores Planning Provisions Review recommends the preparation of LEP amendments and DCP amendments to implement the findings of the Review. These projects have been incorporated into the revised Programme.

Projects identified for completion in 2009

The revised Strategic Planning Programme identifies the following projects to be completed in 2009.

Project	Completion Date
Local Environmental Plans	
Amendments LEP (2007) - St Judes car park; - Landcom sites; - Pharmaceutical facility at Moores Road; - Department of Health site, Pennant Hills.	May 2009
Amendments LEP (2008) - 122X Berowra Waters Road; - Lot 100 DP 1053594 Pennant Hills Road; - 180-190 Pennant Hills Road; and - Foreshores Planning Provisions Review recommendations.	December 2009
Development Control Plans	
Heritage DCP Review	December 2009
Studies	
Heritage Review Stage 4	April 2009
Subregional Employment Study	July 2009
Housing Strategy	July 2009
Outdoor Advertising Review	December 2009
Miscellaneous	
Heritage Week	April 2009
Local Heritage Assistance Fund	June 2009
Heritage Inventories	July 2009
Metropolitan Development Program	April 2009

The revised Strategic Planning Programme includes the following projects to be progressed, or commenced, in 2009.

Project	Completion Date
Local Environmental Plans	
Hornsby Quarry LEP	May 2010
Galston Village LEP	May 2010
Comprehensive LEP	March 2011
Development Control Plans	

Business Lands DCP Amendments	February 2010
River Settlements DCP Amendments	February 2010
Hornsby Quarry and Environs DCP	June 2010
Galston Village Masterplan DCP Amendments	June 2010
Comprehensive DCP	March 2011
Multi-Unit Housing DCPs Review	July 2010
Access and Mobility DCP Review	July 2010
Tree Preservation Controls Review	July 2010
Telecommunications Controls Review	July 2010
Consolidated River Settlements DCP	July 2010
Studies	
Epping Town Centre Study	July 2010
Heritage Review Stage 5	July 2010

If Council resolves to bring forward other projects, consideration should be given to the deferral of projects of a similar scale. It would be appropriate for a Workshop with Councillors to be conducted to discuss the revised Strategic Planning Programme and Council priorities for strategic planning over the current Council term.

Town Planning Services Branch Resources

The Town Planning Services Branch comprises five Town Planners, a Heritage Planner/Heritage Architect, a Cartographer, a Secretary and a Section 149 Certificate Coordinator. In addition to providing town planning services to Council, the Branch is also responsible for heritage conservation, production of 149 (zoning) certificates, cartography and some aspects of the geographic and land information systems.

FINANCIAL

The Strategic Planning Programme requires financial resources for staff in the Town Planning Services Branch and for consultancy fees. The recommended Programme has been designed in accordance with the typical Town Planning Services Branch budget allocation, including salaries and consultant expenditure. The Programme is considered in the preparation of Annual Operating Plans. The Programme does not commit to expenditure over that typically provided in the budget. The financial implications of the individual projects are also reviewed and reported to Council as a component of the project.

In March 2007, the Minister for Planning announced the approval of a contribution of \$100,000 towards the Housing Strategy and \$40,000 towards the Subregional Employment Study. The grant monies for the Employment Study have been expended. The majority of the grant monies for the Housing Strategy have also been expended. However, limited funds remain to assist progress the exhibition of the draft Strategy.

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.

CONCLUSION

Council at its meeting on 19 December 2007 adopted the current Strategic Planning Programme. The majority of projects scheduled to be completed under the Programme by December 2008 have been completed or are nearing completion.

An annual review of the Programme is required to ensure it is consistent with Council's strategic planning priorities. An amended strategic planning Programme is attached for Council's consideration.

RECOMMENDATION

THAT:

1. The 2009/2010 Strategic Planning Programme attached to Executive Manager's Report No. PLN246/08 be adopted.
2. A six monthly report be prepared for Councillors providing an update on the Strategic Planning Programme.
3. A Workshop with Councillors be conducted to discuss the 2009/2010 Strategic Planning Programme and Council priorities for strategic planning over the current Council term.

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Attachments:

1. Attachment A - Current Strategic Planning Programme
2. Attachment B - Summary of Projects
3. Attachment C - Status of Projects
4. Attachment D - Proposed 2009/2010 Strategic Planning Programme

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