

JRPP No:	2010HCC014
DA No:	DA 10/0256
PROPOSED DEVELOPMENT:	PROPOSED ERECTION OF A 102 BED RESIDENTIAL CARE FACILITY UNDER STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004, 149a NEWCASTLE ROAD, WALLSEN
APPLICANT:	ARTON RETIREMENT VILLAGES (NEWCASTLE) PTY LTD
REPORT BY:	FUTURE CITY

Assessment Report and Recommendation

PURPOSE

An application has been received seeking consent to erect a 102 Bed Residential Care Facility under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 at 149a Newcastle Road, Wallsend.

A copy of the amended plans for the proposed development are appended at **Attachment A**.

The application has been publicly notified in accordance with Council's Public Notification policy. One submission has been received in response to the proposal.



Subject Land: Map 316 - F10 as Gregory's Street Directory, 25th Edition.

The objectors' concerns include traffic, road access, right of carriageway, acoustic concerns and drainage easement.

Details of the submissions received are summarised at Section 3.0 of Part II of this report and the concerns raised are addressed as part of the Environmental Planning Assessment at Section 4.0.

Issues

- Whether the proposed development would unreasonably impact on the amenity of the neighbouring dwellings.
- Whether the proposed development would have unreasonable traffic and parking impacts.

Conclusion

The amended proposal has been assessed having regard to the relevant heads of consideration under Section 79C(1) of the Environmental Planning & Assessment Act, 1979 (as amended) and is considered to be acceptable.

Accordingly, it is recommended that the application be approved, subject to compliance with the nominated conditions of consent.

RECOMMENDATION

The application to erect a 102 Bed Residential Care Facility under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 be approved on the basis of the amended plans, subject to compliance with the draft Schedule of Conditions appended at **Attachment B**.

PART II

1.0 THE SUBJECT SITE

The site comprises Lot: 222 DP 1078733, known as 149a Newcastle Road, Wallsend, and is located at the end of an unnamed 'stub' road which connects to Newcastle Road west of the intersection of Newcastle Road and Victory Parade.

The site is an irregular shape and has an access handle extension, 15.24 metres wide and approximately 61.54 metres long, which connects to the adjoining unnamed roadway. The north-eastern boundary is 121.39 metres, the north-western boundary is 54.945m, the southern boundary is variable and a total of 184.415m. Total site area is 1.001 hectares.

The subject site contains no buildings and no significant trees or vegetation (there is a smaller tree, remanent shrubs and grasses). The site has a slope from the east generally to the west. There is currently a man made depression across the middle portion of the site running north west - south east.

2.0 THE PROPOSAL AND BACKGROUND

The original proposed development included the following elements:

- Application proposes the erection of a three level 102 bed *residential care facility* consisting of a basement, ground and first floor levels. The proposed design consists of three 'wings' which radiate out from a central service/dining area.
- Basement Level – including parking, a large area of service facilities (i.e. laundry/storage/loading docks etc) and a smaller reception/office areas).
- Ground Floor & First Level – each level includes three wings of beds with a central area containing the dining and lounge facilities. There are 51 beds per floor.

- Each wing on each floor contains a nurses station.

The amended plans modified the development proposing the buildings in two stages and the removal of a sitting room from the eastern most end of the east wing.

A copy of the amended architectural plans, elevations and sections is appended at **Attachment A**.

3.0 PUBLIC NOTIFICATION

The original application has been publicly notified in accordance with Council's Public Notification policy. One submission was received in response to the original proposal.

The concerns raised by the objector in respect of the original development are summarised as follows:

- Traffic – Concern that the development will have an unreasonable traffic impact.
- Road Access – Concern that the development will not have adequate vehicular/road access to the subject site due to insufficient road width.
- Right of Carriageway – Concern that the development may impact/restrict on the existing right of carriageway over the 'private road' portion of the site.
- Acoustic Concerns – The neighbouring allotment to the north is industrially zoned and, as such, the *"...development of the aged care centre should not impose any restriction on Lot 21 such that it cannot be used as an industrial lot."*
- Drainage Easement – Concern that the subject development will impact on the existing drainage easement along the northern boundary of the subject lot benefitting Lot 21.

The objectors' concerns are addressed under the relevant matters for consideration in the following section of this report.

4.0 ENVIRONMENTAL PLANNING ASSESSMENT

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 79C(1) of the Environmental Planning & Assessment Act, 1979, as detailed hereunder.

4.1 Statutory Considerations [Section 79C(1)(a)(i)&(ii)]

a) Newcastle Local Environmental Plan 2003

The subject property is included within the 2(b) Urban Core Zone under the provisions of the Newcastle Local Environmental Plan (NLEP), 2003. The development is permissible within the zone as detailed within Section 4.1(c) below.

b) Draft Newcastle Environmental Plan 2011

A Draft LEP for the whole of the local government area is on public exhibition between 5 October and 21 December 2010 (ie the Draft Newcastle Local Environmental Plan 2011) and the draft zoning of the land is “R3 Medium Density Residential”. The development is permissible within the zone as detailed within Section 4.1(c) below.

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

The development is proposed under the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP). The proposed development is permissible under the provisions of the SEPP on land zoned primarily for urban purposes which allows dwelling-houses (ie both the current and draft LEPs allow dwelling-houses). It is noted that the development is not proposed on land which would require a *site compatibility certificate* under Clause 24 of the SEPP.

The SEPP allows for several types of housing for seniors including the proposed *residential care facility*. A *residential care facility* is defined as:

*“a **residential care facility** is residential accommodation for seniors or people with a disability that includes:*

- (a) meals and cleaning services, and*
- (b) personal care or nursing care, or both, and*
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,*
not being a dwelling, hostel, hospital or psychiatric facility.”

The proposal meets the access requirements for distance to a bus stop (ie 400 metres) under Clause 26 of the SEPP. It is noted that the development will also be providing a “..community bus for transporting residents to and from the local facilities”.

The NSW Rural Fire Service have issued their *General Terms of Approval* and, as such, it is considered that the development is acceptable having regard to the bushfire prone land provisions under Clause 27 of the SEPP.

The proposed development generally meets the design requirements of Part 3 of the SEPP. Similarly, it is considered that the proposal meets the required design standards under Clause 40 of the SEPP.

Clause 48 of the SEPP includes provisions for design standards which cannot be used to refuse development consent for residential care facilities including height, density, landscaping and car parking.

The development generally exceeds the height given under 48(a) of eight metres, being between 8.5 to 11.6 metres approximately. The applicant has made the following submission in this regard:

“...the 8 metre height identified in the SEPP is a standard that cannot be used to refuse development consent for residential care facilities.” “The reference to the 8 metre height, however, is not a height limitation.”

“..the building is still consistent with what would be allowed within the zone, which includes Residential Flat Buildings. Furthermore, the unique location of the site enables a development of this height to be proposed without impact on neighbouring properties. Topographically, the site is not located on a ridgeline but sits in somewhat of a basin resulting in the building not being elevated further by its topography.”

The above comments from the applicant are generally supported. The subject site is somewhat isolated from surrounding developments with a parkland and creek to the east, west and south. To the north-west and north is industrially zoned land including a vacant allotment and the Energy Australia offices. To the north-east there are several long residential allotments. Furthermore, the subject site is generally lower than the existing residential allotments and topography is broken by the existing creek west of the site.

The development has a Floor Space Ratio (FSR) of approximately 0.71:1 and meets the 1:1 given under Clause 48(b).

Landscaping is to be provided at a rate of 25m² per residential care facility bed (ie 2550m² for 102 beds) under Clause 48(c). The proposed development has in excess of 4000m² and, as such, meets this criteria.

The proposal meets the parking criteria given under Clause 48(d) as discussed in detail at Section 4.2.3 (c).

d) State Environmental Planning Policy No 55—Remediation of Land

The proposal has been assessed in detail having regard to land contamination issues as outlined in Section 4.2.3 (e) of this report and it is considered that the proposal is acceptable having regard to the provisions of State Environmental Planning Policy No 55—Remediation of Land.

e) Integrated Development

The proposal constitutes a *special fire protection purpose* development under Section 100B of the *Rural Fires Act, 1997* being a seniors housing development. The application has been made requesting that development be considered under Section 91 of the *Environmental Planning and Assessment Act, 1979* as *integrated development* in terms of the *Rural Fires Act, 1997*.

The application has been considered by the NSW Rural Service and they have issued their *General Terms of Approval* a copy of which is appended at **Attachment D**.

4.2 Merit Considerations

4.2.1 Relevant Strategic Policies

There are no other relevant Strategic Policies other than those discussed in this report.

4.2.2 Newcastle Development Control Plan [Section 79C(1)(a)(iii)]

a) Contaminated Land Management - Elements 4.2

The proposal has been assessed by Council's Senior Environment Protection Officer in terms of land contamination and is considered to be acceptable subject to conditions of consent. These aspects are addressed in greater detail at Section 4.2.3 (e) of this report.

b) Flood Management & Water Management - Elements 4.3 & 4.5

A Concept Drainage Plan for the management of stormwater runoff from the site has been submitted in support of the proposed development. The Plan has been assessed by Council's Senior Development Officer (Engineering) who advises that the design is satisfactory in terms of the guidelines set out in Elements 4.3 and 4.5. These aspects are addressed in greater detail at Section 4.2.3 (d) of this report.

Appropriate conditions are recommended to ensure that the submitted Concept Drainage Plan is implemented as part of the site development works.

4.2.3 Impacts on the Natural and Built Environment [Section 79C(1)(b)]

a) Density, Character, Streetscape, External Appearance, Height, Bulk & Scale

The amended proposal is for the erection of a multi level *residential care facility* under the SEPP. The site is proposed to be partially excavated to create a basement level with car parking. This design means that the proposal will present as a partially two-three storey development. The proposal is acceptable in terms of its height, bulk and scale having regard to the topography and design layout relative to the surrounding allotments as discussed in detail in Section 4.1(c).

The proposal's mix of materials and articulation is acceptable having regard to the character and external design. It is further noted that the subject site's isolated position will limit the development's visual impacts.

The density for this type of development is reliant on the provisions of the SEPP (ie Clause 48(b) FSR 1:1). It is noted that the site does not have a nominated FSR under the Newcastle DCP 2005 but the adjoining land's FSR is 0.9:1 which this development meets (ie 0.71:1).

b) Amenity Impacts (Overshadowing, Privacy, Views & Noise)

- Overshadowing

The applicants have submitted a shadow diagram illustrating the impact on the neighbouring sites. The shadows during winter fall on the adjoining parkland and do not have an unreasonable impact.

- Privacy

The design and position of the proposed *residential care facility* is such that it will not have privacy impacts on the nearby residential properties. The proposed buildings are in excess of 30 metres from the nearest residential boundary.

- Views

The proposal will not have any unreasonable impact on views or outlook.

c) Traffic, Parking & Access

The traffic, parking and access of the proposal have been assessed by Council's Senior Development Officer (Engineering) and are considered satisfactory subject to the recommended conditions of consent.

The officer's detailed assessment is as follows:

Traffic

As a 102 bed aged care facility the proposal will generate additional traffic though these facilities are not normally high traffic volume generators. The traffic assessment by TPK and Associates has concluded that the proposal will not adversely impact on the adjacent road network. This conclusion is not disputed.

The property has access to Newcastle Road which is a classified state road. However no direct access to the road occurs and the development does not require referral under Schedule 3 of SEPP Infrastructure.

Parking

In providing a 102 bedroom aged care facility the proposal is required to provide a total of 29 off street car spaces and an ambulance bay as per SEPP housing for the aged and people with a disability. This is based on the fact that 102 beds are to be provided and the maximum staff numbers on site is 36 at any one time.

The proposal provides 41 car parks provided as 19 visitor car parks and 22 staff car parks. This is in excess of the SEPP requirements therefore is considered satisfactory.

The provided car parks will need to comply with AS2890.1-2004 and the traffic report provided indicates that the proposal does.

Access

The proposal has access via an access road (public road) and access handle to Newcastle Road. The existing public road access has a 6 metre wide carriageway but no kerb and gutter. The proposed internal access road is proposed as a sealed road, 6 metres wide with kerb and gutter. No objection is raised to this proposal.

The public road provides left turn in and left turn out access to Newcastle Road with a wide kerbside lane and no on road parking. This is considered suitable for left turn in movements without the need to provide a separate marked left turn lane.

The condition of the public road access is however of concern. The existing pavement is poor and the drainage is not formalised. Support for the application I believe can not be provided unless this road is constructed to Council's standard with new kerb and gutter and formalised drainage... this road has previously been considered by the Local Development Committee in regard to a proposed Industrial development on the property known as 147A. One way cross fall with kerb and gutter on one side only was recommended however an 8.5 metre wide radius turning head is also required at the end of the public road.

Other

The proposal as an aged care facility needs to be within 400 metres of bus stops. The proposal shows a number of bus stops in close vicinity of the site with suitable pedestrian facilities provided at the adjacent Newcastle Road / Victory Parade traffic signals. Grades appear satisfactory however a footpath extension is required along the unnamed public access road. The bus stop on the northern side of Newcastle Road east of Victory parade currently has no shelter and an old wooden seat in need of repair. A new shelter and bench seat is required. These will need to be conditioned."

The proposed development is acceptable having regard to traffic, parking and access. The development meets the access to a bus stop criteria required under Clause 26 of the SEPP. It is considered that the concerns raised during public notification regarding traffic, road access and the right of carriageway have been adequately addressed.

Appropriate draft conditions have been recommended within **Attachment B** to address traffic matters.

d) Flooding and Stormwater

The flooding and stormwater aspects have been assessed by Council's Senior Development Officer (Engineering) and are considered satisfactory subject to the recommended conditions of consent.

The officer's detailed assessment is as follows:

"Flooding

According to Council's records the property is flood prone. A flood information certificate has been issued for the site which states the 100 year ARI flood level varies from RL 14.49 m AHD to RL 15.35 m AHD while the PMF level varies from RL 15.35 m AHD to RL 17.13 m AHD. The minimum floor level designated within the flood certificate is RL 15.85 m AHD.

The proposed aged care facility has 3 levels with the basement level including reception and administration areas being at RL 15.85 m AHD. This satisfies Council requirements. As an aged care facility however the proposal represents a special needs evacuation development under the NSW Governments Floodplain development manual and as such consideration of the PMF flooding should also occur. In this regard all the residential components of the development are on Levels 2 and 3 which are all above the likely PMF level for the site. Therefore evacuation is unlikely to be required provided the building can withstand the force of the flood flows and remain structurally adequate during the PMF flood event.

Drainage

As a major development the proposal is required to comply with Element 4.5 (b) of Council's DCP 2005. The applicant has provided a stormwater management plan by ADW Johnson which has been designed in accordance with Council's NDCP 2005.

The proposed concept drainage is satisfactory."

It is considered that the proposal adequately addresses the flooding and stormwater aspects of the Newcastle DCP 2005.

Appropriate conditions of consent have been included in the draft Schedule of Conditions at **Attachment B** to confirm the stormwater management arrangements.

e) Environmental

The likely environmental impact of the proposal has been assessed by Senior Environmental Protection Officer of Council's Compliance Services Unit (CSU) and is considered satisfactory subject to the recommended conditions of consent.

The officer's detailed assessment is as follows:

Contamination

The site history of the proposed development site, from a contamination perspective, was documented in the Phase 1 Environmental Site Assessment prepared by PPK dated July 2000. Site history research showed the proposed development site was once part of the former

Wallsend brickworks facility. The former use as a brickworks facility raised concern regarding potential contamination of soil and groundwater at the site. Since closure of the brickworks facility the proposed development site was also utilised for storage of surplus soil, rotor mill asphalt and building waste. The proposed development site was also subject to illegal dumping activities. Due to the historical potentially contaminating activities conducted on the proposed development site further study was warranted.

The Phase 2 Environmental Site Assessment prepared by RCA Australia Pty Ltd dated October 2003 undertook a sampling program for potential soil and groundwater contamination. Assessment of contaminant levels in soil were conducted against criteria relating to a residential landuse. Sampling revealed elevated 'hotspot' concentrations of Total Petroleum Hydrocarbons (TPH), Benzo(a)Pyrene (B(a)P), and Polycyclic Aromatic Hydrocarbons (PAH). The Phase 2 Environmental Site Assessment prepared by RCA Australia Pty Ltd dated October 2003 noted the proposed development site had been extensively filled and the elevated levels of contaminants were widespread across the site. Additional analysis showed the contaminants were relatively immobile and unlikely to move off-site.

Groundwater sampling revealed elevated levels of heavy metals, copper and zinc, in comparison to criteria outlined in the Australian and New Zealand Environment and Conservation Council (ANZECC) 'Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2000'. However, analysis of the concentrations of copper and zinc in upgradient and down gradient wells showed relatively consistent concentrations of these elements. Therefore, these heavy metals in the groundwater aquifer appear to be a regional phenomenon and unlikely to be restricted to the proposed development site alone. The absence of contaminants identified in fill material within the aquifer reinforces the conclusion that contaminants in soil are relatively immobile.

The Phase 2 Environmental Site Assessment prepared by RCA Australia Pty Ltd dated October 2003 concluded remediation of the proposed development site was required to ensure the site was suitable for a residential landuse. The Phase 2 Environmental Site Assessment prepared by RCA Australia Pty Ltd dated October 2003 was reviewed by an accredited site auditor, Ian Gregson from GHD. The Summary Site Audit Report prepared by Ian Gregson from GHD dated January 2004 concurred with the results from the Phase 2 Environmental Site Assessment prepared by RCA Australia Pty Ltd dated October 2003 and related remediation of the site was required.

Additional soil sampling was conducted to assess potential remedial options and the results were reported in the Remediation Action Plan (RAP) prepared by RCA Australia Pty Ltd dated June 2010. Sampling revealed elevated levels of PAH and B(a)P in the fill material in the central portion of the site, but revealed limited concentrations of contaminants along the access road. The RAP prepared by RCA Australia Pty Ltd dated June 2010 notes a 'cap and contain' strategy is the preferred remediation

method for the proposed development. The RAP prepared by RCA Australia Pty Ltd dated June 2010 states the 'cap and contain' strategy is the preferred method due to the widespread nature of the contamination and cost implications of complete removal of contamination. Element 4.2 of the Newcastle Development Control Plan (DCP) 2005 states remediation of land should generally be carried out and completed in a manner which will not result in an unacceptable level of risk to human health or the environment and without the need for site-specific on-going management controls. The proposed remediation method will ensure the site is suitable for the proposed development, but requires on-going management controls i.e capping, which contravenes the principles of Element 4.2 of the Newcastle DCP 2005. However, an accredited site auditor, has reviewed the proposed remediation strategy and concludes the proposed development is appropriate pursuant to the RAP prepared by RCA Australia Pty Ltd dated June 2010 being implemented. Whilst the proposed remediation method contravenes the principles of Element 4.2 of the Newcastle DCP 2005 mitigating factors associated with alternative remediation methods, such as prohibitive costs, and engagement of an accredited site auditor to ensure the proposed remediation method is undertaken appropriately require consideration. The contamination investigation undertaken and verification of the proposed remediation method to ensure the site is suitable for the proposed development reflects the key objectives of Element 4.2 of the Newcastle DCP 2005 and enables Council to exercise its functions in considering contamination in the development process. Council is satisfied the development site can be made suitable for the proposed aged care facility provided the RAP prepared by RCA Australia Pty Ltd dated June 2010 is implemented. The requirement for implementation of the RAP is addressed by an appropriate condition of consent.

The RAP prepared by RCA Australia Pty Ltd dated June 2010 notes a validation report for the proposed remediation method is required to be prepared at the conclusion of works in accordance with the Department of Environment and Climate Change's (DECC) 'Guidelines for Consultants Reporting on Contaminated Sites' and 'Guidelines for the NSW Site Auditor Scheme'. The validation report will be required to be submitted to the Principal Certifying Authority (PCA) and Council prior to the issue of an Occupation Certificate. The requirement for submission of a validation report will be addressed by an appropriate condition of consent.

To maintain the integrity of the proposed remediation method a long-term environmental management plan will be required to be submitted to and signed off by the accredited site auditor. The long-term environmental management plan will also be required to be submitted to the PCA and Council prior to the issue of an Occupation Certificate. The requirement for preparation and submission of a long-term environmental management plan will be addressed by an appropriate condition of consent.

A Site Audit Report and Site Audit Statement are required to be prepared by the accredited site auditor to certify the site is suitable for the intended development after remediation activities are completed. The requirement

for preparation and submission of the Site Audit Report and Site Audit Statement prior to issue of an Occupation Certificate will be addressed by an appropriate condition of consent.

Noise

The proposed development has the potential to generate adverse noise impacts for surrounding receivers, particularly residential receivers located to the east in Victory Parade and to the south-west in Iranda Grove. Potential noise sources include mechanical plant and vehicular noise in the carpark area and along the proposed access road. The Basement Floor Plan prepared by Jones Sonter shows a plant room located in the south-east corner of the proposed building. The plant room is designed with enclosed walls and has no visual line of sight to residential dwellings. Due to the location of the plant room the mechanical plant items situated within are effectively shielded from residential dwellings and are unlikely to generate adverse noise impacts. However, an appropriate condition of consent requiring the preparation of an acoustic assessment will be included to address potential noise impacts if they arise in the future.

The carparking area for the proposed development is located within the basement level. The Elevations prepared by Jones Sonter show the basement area will be enclosed by solid walls with inset louvres for ventilation. The basement carpark is effectively shielded from residential dwellings to the east and south-west. The carparking area is unlikely to generate adverse noise impacts for residential receivers due to the area being enclosed and the low number of vehicle movements.

The access road into the proposed development has the potential to generate adverse noise impacts for residential dwellings which front Victory Road, but share a rear boundary with the access road. Noise may be generated by vehicular movements including heavy vehicles such as waste collection trucks and delivery vehicles. The Statement of Environmental Effects (SEE) prepared by ADW Johnson Pty Ltd dated March 2010 notes a maximum of thirty-one staff will be present at the site during peak periods, 7:00am to 11:00am and 4:00pm to 8:00pm. The SEE prepared by ADW Johnson Pty Ltd also notes that a staff shift occurs from 10pm to 7am resulting in nil or minimal vehicle movements during the night period. The existing residential dwellings are located away from the access road, towards Victory Parade, and currently include dividing fences which separate the properties from the access road. The location of the residential dwellings and presence of existing dividing fences coupled with low vehicle movements, especially during the night period, is likely to result in minimal noise impacts for residential receivers from the access road. However, Council remains concerned regarding potential noise impacts from heavy vehicles utilising the access road and recommends all waste collection vehicles and delivery trucks be restricted from entering the site during the evening and night periods. An appropriate condition of consent restricting waste collection and deliveries to the site to 7:00am to 6:00pm daily will be included to address potential heavy vehicle noise.

An objection has been raised regarding the impact of industrial noise on the proposed development as the adjoining site to the north is zoned 4(a) Urban Services. The site to the north is currently vacant resulting in no industrial noise currently impacting on the proposed development from this site. Any assessment of noise from the site would be theoretical based on generic uses of the site. Therefore, Council considers no further assessment regarding the impact of industrial noise on the proposed development is warranted. The 4(a) zone prohibits industrial development with light industry being permitted. Any future development of the adjoining site would be required to demonstrate the light industry proposal would not impact on residential amenity, including the proposed development if development consent is granted, through the development application process.

The applicant, in their response to submissions, has provided the following comments:

“The adjoining 4(a) Urban Services zone, of which Lot 21 is zoned, only allows for light industrial, transport and storage activities which do not adversely affect the amenity of the neighbourhood.

Whilst Lot 222 DP 1078733 has been rezoned from 4(a) Urban Services zone to 2(b) Urban Core zone, this does not negate the fact that the neighbouring lots to the east and north-east of Lot 22 were (prior to the rezoning of Lot 222), and continue to be, under an existing 2(b) zoning.

If the proposed development on Lot 21 is to go ahead in the future, any increased noise emissions produced as a result of the development would already need to be considered against objective (a) for the zone, which refers to the amenity of the surrounding neighbourhood.

In addition, given the existing 2(b) zoning of the lots to the east and north-east, any future development on Lot 21 would also need to give consideration to 7.1.7 – Neighbourhood Amenity of Council’s DCP 2005 (Element 7.1- Industrial Development), and address the impact of noise emissions on the surrounding neighbourhood.”

It is considered that the proposal adequately addresses the land contamination aspects of the Newcastle DCP 2005. The acoustic impacts of the proposed development have been assessed and is considered to be acceptable. The above assessment by Council officers has specifically addressed the issued raised in the submission regarding the future industrial development. Furthermore, the response by the applicant notes that there exists residentially zoned land directly east of Lot 21 and, as such, any future industrial development on Lot 21 would need to have regard to residential amenity impacts such as noise.

Appropriate conditions of consent have been included in the draft Schedule of Conditions at **Attachment B** to confirm the stormwater management arrangements.

4.2.4 Social & Economic Impacts in the Locality [Section 79C(1)(b)]

The proposed development would not have any adverse social or economic impacts in the locality. However, it will have a short term positive economic impact during the construction period. It is further noted that the proposal contributes to the provision of increased aged care beds within in the community which is a positive social benefit.

The proposed development would not be likely to have any other significant social or economic impacts in the locality.

4.2.5 Suitability of the Site for the Development [Section 79C(1)(c)]

The site is within a Mine Subsidence District and is also identified as being Bush Fire Prone land (ie *Vegetation Buffer* only), affected by land contamination and flooding. The flooding and land contamination aspects have been addressed in the report above and are satisfactory subject to the recommended conditions of consent.

The Mines Subsidence Board has assessed the proposal and have issued their approval subject to conditions of consent as appended at **Attachment C**.

The proposal required, following negotiation between the NSW Rural Fire Service and the applicants, modification resulting in the easternmost sitting room being removed. The NSW Rural Fire Service have now issued their General Terms of Approval and the *Bush Fire Safety Authority* subject to conditions outlined in the letter appended at **Attachment D**.

The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

4.2.6 Submissions made in accordance with the Act or Regulations [Section 79C(1)(d)]

This report has addressed the various concerns raised in the submission received in response to the Public Notification procedures under Council's DCP with the exception of:

- Drainage Easement – Concern that the subject development will impact on the existing drainage easement along the northern boundary of the subject lot benefitting Lot 21.

The northern boundary of the subject lot is not burdened by any easements.

4.2.7 Public Interest [Section 79C(1)(e)]

- **Sustainability**

The proposed development is considered to be satisfactory having regard to the principles of ecologically sustainable development.

The proposed development would not result in the disturbance of any endangered flora or fauna habitat or otherwise adversely impact on the natural environment.

- **General**

The proposed development does not raise any significant general public interest issues beyond matters already addressed in this report.

ATTACHMENTS

- Attachment A:** Copy of current amended plans for the proposed development – 149A Newcastle, Wallsend (DA 10/0256)
- Attachment B:** Draft Schedule of Conditions - DA 10/0256
- Attachment C:** Copy of Mines Subsidence letter
- Attachment D:** Copy of NSW Rural Fire Service General Terms of Approval

ATTACHMENT A

**ATTACHMENT B - DRAFT SCHEDULE OF CONDITIONS
DA 10/0256 – 149A NEWCASTLE ROAD WALLSEND**

SCHEDULE 1

Each Stage (1 & 2) must comply with the conditions within Schedule 1 plus the conditions required for each specific Stage listed after Schedule 1.

1 Conditions Restricting the Terms of Consent

- 1.1 The proposed development being carried out strictly in accordance with the details set out on the amended plans by Jones Sonter received 11 November 2010 (Project No 090702 Dwg No DA 1.01, Rev DA 1, DA 1.02, Rev DA 2, DA 2.01, Rev DA 2, DA 2.02, Rev DA 2, DA 2.03, Rev DA 2, DA 3.01, Rev DA 1, DA 3.02, Rev DA 1, DA 4.01, Rev DA 2, DA 4.02, Rev DA 1, DA 4.03, Rev DA 1), the Statement of Environmental Effects and on the Application form, except as otherwise provided by the conditions of this consent.

Note: Any proposal to modify the terms or conditions of this consent whilst still maintaining substantially the same development to that approved, will require the submission of a formal application for Council's consideration in accordance with the provisions of Section 96 of the Environmental Planning and Assessment Act, 1979.

Reason: To confirm and clarify the terms of Council's approval.

- 1.2 The proposed development being carried out strictly in accordance with the details set out on the plans dated Feb 2010 & March 2010 prepared by ADW Johnson Project No. 35543 Concept Engineering Plans (Sheets 1 to 3) and Figure 4 Stormwater Management Plan, Issue A, except as otherwise provided by the conditions of this consent.

Reason: To confirm and clarify the terms of Council's approval.

- 1.3 The proposed development being limited to the accommodation of only: (a) seniors or people who have a disability, (b) people who live within the same household with seniors or people who have a disability or (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy, in accordance with the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Note: The following definitions apply in terms of seniors and people who have a disability:

Seniors are any of the following:

- (a) people aged 55 or more years,
- (b) people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 of the Commonwealth) is provided,

- (c) people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

people with a disability are people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life.

Reason: To confirm and clarify the terms of the approval and ensure that the accommodation is for the purpose of aged and disabled housing.

2 Conditions Requiring Payment of a Monetary Contribution/Dedication of Land / Carrying Out of Off Site Works

- 2.1 Any necessary alterations to public utility installations being at the Developer/Demolisher's expense and to the requirements of both Council and the appropriate authorities.

Reason: To ensure that any required alterations to public utility infrastructure are undertaken to acceptable standards and without demands on public sector resources.

- 2.2 A temporary protective crossing being provided over the footway for vehicular traffic before building operations are commenced. This approval does not permit access to the property over any adjacent private or public land.

Reason: To ensure public safety and protection of public assets.

- 2.3 The Developer designing and constructing the following works within the unnamed public road providing access to the site at no cost to Council and in accordance with Council's guidelines and design specification, such works to be implemented prior to occupation of the premises:

- a) Road pavement reconstruction (one way cross-fall)
- b) Road shoulder pavement (if required)
- c) Kerb and gutter (low side only)
- d) Footway formation
- e) Foot paving (1.2 m wide concrete)
- f) Associated drainage works
- g) Provision of an 8.5 metre radius turning head
- h) Installation of road name plates.

Note: Full construction details regarding the required works are to be submitted to Council for approval prior to commencement.

Reason: To ensure that public road facilities are upgraded to an appropriate standard having regard to the additional traffic movement likely to be generated by the proposed development.

- 2.4 The Developer constructing at no cost to Council and to Council's requirements, the following public footway works in Victory Parade adjacent to the site, such works to be implemented prior to the occupation of the premise:

- a) Provision of a suitable bus shelter and seat in accordance with the Council guidelines in force at the time of construction at the bus stop on the northern side of Newcastle Road immediately east of Victory Parade.

- Note:
1. It will be necessary for the Developer to notify water, telecommunications, and gas and electricity authorities of the proposed footway works in order to enable the various authorities to carry out and complete any necessary repairs and/or amplification to their respective services before such works are commenced.
 2. The Developer is advised to confer with Council's Development & Building Services Section in order to confirm Council's design requirements and construction standards prior to the commencement of the civil works within the public road.

Reason: To provide for an appropriate standard of pedestrian amenity and to protect the heritage values and enhance the overall environmental quality of the public road.

3 Conditions Requiring Inclusion of Details in Documentation for a Construction Certificate Application / Matters to be Resolved Prior to Occupation of the Premises

- 3.1 On-site parking accommodation being provided for a minimum of 41 vehicles and such being generally in accordance with the minimum parking layout standards indicated within Element 4.1 of Council's Newcastle 2005 DCP and Australian Standards AS2890.1-2004 "Parking Facilities – Part 1 off street car parking". Full details are to be included in documentation for a Construction Certificate application.

Reason: To ensure the provision of adequate on-site parking facilities commensurate with the demand likely to be generated by the proposed development.

- 3.2 Clear openings between car park columns for single parking spaces being a minimum of 2.7 m and for double parking spaces of 5.0 m. Full details are to be included in documentation for a Construction Certificate application.

Reason: To ensure that all parking spaces are conveniently accessible and to thereby encourage use of on-site parking facilities and minimise overflow parking in adjacent streets.

- 3.3 The minimum height between the car park floor surface and the lowest overhead obstruction being 2.2 m.

Reason: To ensure safe and convenient use of the car park by the public, including persons driving vans and recreational vehicles and to thereby encourage its use and to minimise overflow parking in adjacent streets.

- 3.4 All proposed driveways, parking bays and vehicular turning areas being constructed with a basecourse of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or interlocking

pavers and being properly maintained. Full details are to be included in documentation for a Construction Certificate application.

Reason: To facilitate the use of vehicular access and parking facilities and to minimise any associated noise and dust nuisance.

- 3.5 The proposed driveway/s being constructed with a base course of adequate depth to suit design traffic, being sealed with bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained.

Reason: To facilitate the use of vehicular access and parking facilities and to minimise any associated noise and dust nuisance.

- 3.6 Any alteration to natural surface levels on the site being undertaken in such a manner as to ensure that no surface water is drained onto or impounded on adjoining properties.

Reason: To ensure that any such proposed works do not disrupt existing natural stormwater flows in the vicinity.

- 3.7 The Developer instituting appropriate erosion protection and soil stabilisation measures in association with the proposed site works. Such measures are to be designed in accordance with the requirement of the Department of Water and Energy. Full details are to be included in the documentation for a Construction Certificate application.

Reason: To control soil erosion and prevent sedimentation of surrounding lands both private and public.

- 3.8 All roof water from the proposed new work being directed to the proposed water tank and being reticulated to any new toilet cisterns and cold water washing machine taps, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and plumbing is to be installed in accordance with AS 3500, the relevant plumbing regulations and the requirements of the Hunter Water Corporation.

Reason: To help ensure minimal water consumption in the interest of water conservation and principles of sustainability.

- 3.9 Overflows from the roof water tanks and any additional discharge controls (if required) being directed to the natural watercourse to the west of the site, full details to be provided with the Construction Certificate application. Discharge to the watercourse is to be dissipated to sheet flow.

Reason: To ensure stormwater overflow is appropriately controlled and does not cause public nuisance or nuisance to neighbouring properties.

- 3.10 The water management measures as indicated on the submitted plans and Statement of Environmental Effects and/or modified under the terms of this consent being implemented and the nominated fixtures and appliances being

installed and operational prior to issue of an Occupation Certificate, full details to be provided with the Construction Certificate application.

Reason: To ensure Councils requirements for water management are complied with in the interest of water conservation and principles of sustainability.

- 3.11 All new impervious surfaces, including driveways and paved areas being drained to the nominated discharge controls, full details to be provided with the Construction Certificate application.

Reason: To ensure that surface water from impervious areas is appropriately managed in accordance with Council's requirements for stormwater management.

- 3.12 All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required under the conditions of this consent being implemented and a comprehensive landscape design plan and specification in respect thereof being prepared by a qualified landscape designer and being submitted with a Construction Certificate application.

Note: i) The required comprehensive landscape design plan and specifications is to be in accordance with the provisions of Council's adopted Newcastle Development Control Plan, 2005 and is to include cross sections through the site where appropriate, proposed contours or spot levels, botanical names, quantities and container size of all proposed trees, shrubs and ground cover, details of proposed soil preparation, mulching and staking as well as treatment of external surfaces and retaining walls where proposed, drainage, location of taps and the nominated maintenance periods. Refer to attached checklist.

- ii) A Landscape Practical Completion Report is required to be submitted to the Principal Certifying Authority by the consultant responsible for the landscape design plan prior to occupation of the premises or any portion of the premises that is the subject of this consent. The report is to verify that all landscape works have been carried out in accordance with the approved landscape design plan to a high professional standard and that an effective maintenance program has been commenced.

Reason: To ensure that adequate and appropriate provision is made for landscaping of the site in association with the proposed development, to enhance the external appearance of the premises and to contribute to the overall landscape quality of the locality.

- 3.13 Any garbage storage facility being screened from the street. Full details are to be included in the documentation for a Construction Certificate application.

Reason: To ensure any such facilities do not unreasonably detract from the external appearance of the development.

3.14 A Landscape Practical Completion Report is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate;

Reason: To ensure that landscape works are carried out in accordance with the approval.

3.15 The applicant complying with all requirements of the Hunter Water Corporation Ltd regarding the connection of water supply and sewerage services, including the payment of any required cash contribution towards necessary amplification of service mains in the locality as a result of the increased intensity of land use proposed. A copy of the Corporation's certificate of compliance is to be included in documentation for a Construction Certificate application.

Reason: To ensure that water supply and sewerage services are properly connected to the proposed development in the public interest.

3.16 The building being provided with adequate means of access for persons with disabilities in order to comply with the Building Code of Australia and the Disability Discrimination Act 1992.

In this regard, the applicant is to submit a design detail which has been certified by a qualified Access Advisor* with the application for a Construction Certificate.

Note: i) Compliance with the Building Code of Australia only can still leave a building professional or building owner in contravention of the Disability Discrimination Act 1992.

ii) * A qualified Access Advisor is a current member of -
Association of Consultants in Access Aust Inc
326 Autumn Street, HERNE HILL, VIC. 3218.
Ph (03) 5221 2820
www.access.asn.au

iii) A qualified Access Advisor should carry current and relevant public liability and public indemnity insurances for the practice of their trade.

Reason: To ensure compliance with the provision of the Environmental Planning and Assessment Act, 1979 and the Building Code of Australia and the Disability Discrimination Act 1992 in relation to the provision of equity in access for disabled persons.

3.17 All areas not provided with natural ventilation in accordance with the provisions of the Building Code of Australia being provided with an adequate mechanical ventilation system complying with Australian Standard 1668, Parts 1 and 2 "The use of mechanical ventilation and air conditioning in buildings". Full details are to be included in the documentation for a Construction Certificate application.

Reason: To ensure the provision of adequate ventilation in the interest of public health and safety.

- 3.18 The design and construction of any kitchens, food preparation, food stuff storage areas and serving areas being in accordance with the relevant requirements of the Australian Standard *AS 4674-2004 Design, construction and fit-out of food premises* dated 11 February 2004. Full details to be submitted for approval with the required Construction Certificate.

Reason: To ensure safe and suitable food for human consumption under the provisions of the Food Act 2003 and Food Regulations 2004.

- 3.19. All external ramps and pathways within the site required to be accessible for persons with disabilities being designed and constructed in accordance with AS.1428 – Design for Access and Mobility. Kerb ramps are to be provided adjacent to disabled parking bays. Full details are to be included in documentation for a Construction Certificate application.

Reason: To ensure appropriate disabled persons access is provided for this development in accordance with the appropriate standards.

- 3.20. A pavement design report for the construction of the internal access driveway and car park being prepared and certified by a practising geotechnical engineer, and such being included in documentation for a Construction Certificate application.

Reason: To ensure the future integrity of the internal road network and car park of the development.

- 3.21 A restriction as to user being registered against the title of the property, in accordance with section 88E of the Conveyancing Act 1919, limiting the use of any accommodation to the kinds of people given under condition 1.3 of this Notice of Determination and such being lodged with Council for certification by the General Manager and being registered with the Department of Lands, Land and Property Services prior to issue of any Occupation Certificate or occupation of the premises, it being noted that the instrument is to provide that the restriction is unable to be released, varied or modified without the concurrence of the Newcastle City Council.

Reason: To ensure the development is used for the purpose of accommodating only seniors or people with a disability.

4 Conditions Requiring the Submission of Future Applications to Council or The Approval of Other Authorities

- 4.1 Any proposed business identification sign or advertising sign, being designed in accordance with the provisions of Council's adopted Newcastle Development Control Plan, 2005 and being the subject of a separate Development Application approved prior to erection or placement in position.

Reason: To advise of the necessity to submit further applications to Council in respect of proposed signage in order that any such proposals may be properly assessed in accordance with relevant

heads of consideration under the Environmental Planning and Assessment Act, 1979.

- 4.2 Compliance with the requirements of the Hunter Water Corporation in respect of any building or structure proposed to be erected over any services or stormwater drain under the Corporation's control.

Reason: To protect the Corporation's infrastructure from site development works.

- 4.3 Any proposed work within the public road, including pipe or vehicular crossings, being the subject of the separate approval of Council prior to commencement.

Note: The required approval can be obtained by telephoning Council's Depot on 4974 6000 to request a Road Opening Approval. A fee will be payable in this regard

Reason: To ensure that works within the public road are suitably authorised and constructed to appropriate standards.

- 4.4 Prior to commencement of site works the developer submitting to Council for approval a Construction Traffic Management Plan addressing traffic control measures to be utilised in the public road reserve during the construction phase.

Note: The required plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve. The plan is to be prepared in accordance with Australian Standard 1742.3 – 2002.

Reason: To control vehicular and pedestrian traffic movements in the public road reserve during the construction phase.

- 4.5 No work within the public road being commenced until Council's separate written approval has been obtained.

Note:

- 1) A separate road works application is required for the works to be undertaken in the public road.
- 2) Engineering design plans and specifications for the works being undertaken in the public road reserve are required to be submitted to Council for approval with the Road Works application.
- 3) An additional fee will be required by Council for the assessment of engineering plans submitted for the public road works. In this regard the developer is advised to confer with Council's Development & Environment Section in order to confirm this fee.

Reason: To ensure that any work within the public road is carried out in accordance with Council's and the Roads & Traffic Authority's requirements and under Council supervision.

5 General Conditions

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

Reason: To confirm a condition of consent prescribed by the Environmental Planning & Assessment Regulation 2000.

- 5.2 The proposed visitor parking bays being clearly indicated by means of signs and/or pavement markings.

Reason: To encourage the use of the proposed on-site car parking facilities and thereby minimise kerbside parking in the adjacent public road as a result of the proposed development.

- 5.3 All vehicular movement to and from the site being in a forward direction.

Reason: To ensure that the proposed development does not give rise to vehicle reversing movements on or off the public road with consequent traffic accident potential and reduction in road efficiency.

- 5.4 Construction of the required site discharge control devices being supervised and certified upon completion by a Consultant Engineer or Registered Surveyor with respect to its compliance with the approved design plans. The certification is to be supported by a Works-as-Executed (WAE) plan of the property drainage and detention system, which is to be submitted to Council by the Principal Certifying Authority/Applicant prior to the issue of an Occupation Certificate or occupation of the premises.

Reason: To ensure that proposed drainage infrastructure is satisfactorily constructed.

- 5.5 Appropriate arrangements are to be made for the collection of waste (recyclable and non-recyclable) from the development and such arrangements being in place prior to the occupation of the premises the subject of this development application.

Reason: To ensure suitable garbage removal arrangements are provided in association with the proposed development in the interest of public safety.

- 5.6 Separate bins being provided within the proposed refuse storage areas to enable the on-site separation of recyclable and non-recyclable garbage, such arrangements being in place prior to the occupation of the premises the subject of this development application.

Reason: To ensure suitable garbage arrangements are provided in association with the proposed development in accordance with Council's Waste Minimisation Policy.

- 5.7 Proposed parking areas, driveways, vehicular ramps and turning areas being maintained clear of obstruction and being used exclusively for purposes of car parking and vehicle access, respectively. Under no circumstances are such areas to be used for the storage of goods or waste materials.

Reason: To ensure the proposed/required parking, facilities and associated driveways are able to function efficiently for their intended purpose and are not otherwise used in a manner which detracts from the overall appearance of the development.

- 5.8 Written certification from a Practicing Geotechnical Engineer that the internal access driveway and car park has been constructed in accordance with the geotechnical requirements being submitted to the Principal Certifying Authority prior to the occupation of the premise.

Reason: To ensure the future integrity of the internal access driveway and car park of the development.

- 5.9 All public footways, footpaving, kerbs, gutters and road pavement damaged during the works being immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to Council's satisfaction prior to the issue of any occupation certificate in respect of the development.

Reason: To ensure that safe conditions are maintained on the site during construction and that the required restoration is undertaken to acceptable standards, without demand on public sector resources.

- 5.10 Where the proposed development involves the destruction or disturbance of any existing survey monuments, those monuments affected being relocated at no cost to Council by a surveyor registered under the Surveyor's Act.

Reason: To ensure that existing permanent survey marks which may be affected by the development are appropriately reinstated.

- 5.11 The premises being identified by the provision of house numbers on the building exterior and mailbox such that they are clearly visible from the road frontage.

The minimum numeral height shall be 75 mm.

Reason: To ensure that the property can be readily identified by visitors, motorists, emergency services and the community generally.

- 5.12 The vehicular entrance and exit driveways and the direction of traffic movement within the site being clearly indicated by means of reflectorised signs and pavement markings.

Reason: To ensure that clear direction is provided to the drivers of vehicles entering and leaving the premises in order to facilitate the orderly and efficient use of on-site parking spaces and driveway access and in the interest of traffic safety and convenience.

- 5.13 The use and occupation of the premises including all plant and equipment installed thereon, not giving rise to any "offensive noise", as defined under the Protection of the Environment Operations Act, 1997, as amended.

Note: Should Council consider that offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic consultant's report recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming that the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to Council before the expiration of the nominated period.

Reason: To ensure that appropriate noise control measures are implemented if required.

- 5.14 There being no interference with the amenity of the neighbourhood by reason of the emission of any vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the proposed development.

Reason: To prevent environmental pollution, to ensure observance of appropriate public health standards and to protect the existing amenity of the neighbourhood.

- 5.15 Any liquid wastes from the premises, other than stormwater being discharged to the sewers of the Hunter Water Corporation in accordance with that authority's requirements.

Reason: To prevent environmental pollution and to ensure observance of appropriate public health standards.

- 5.16 Any proposed floodlighting of the premises being so positioned, directed and shielded as to not interfere with traffic safety or detract from the amenity of the adjacent premises.

Reason: To ensure that the proposal does not interfere with traffic safety and to protect the existing amenity of the neighbourhood.

- 5.17 Construction noise that is audible at other premises is to be restricted to the following times:

- Monday to Friday, 7.00 am to 6.00 pm
- Saturday, 8.00 am to 1.00 pm

No construction/demolition work noise is permitted on Sundays or Public Holidays

Reason: To prevent 'offensive noise' from construction/demolition sites in accordance with the Environmental Protection Authority Guidelines.

- 5.18 No construction/demolition work being undertaken on a Public Holiday or on a Saturday or Sunday adjacent to a Public Holiday

Reason: To safeguard the amenity of the neighbourhood.

- 5.19 Council's "PREVENT POLLUTION" sign being erected and maintained in a conspicuous location on or adjacent to the property boundary so that it is clearly visible to the public or at other locations on the site as otherwise directed by Council for the duration of construction work.

Note: Council's PREVENT POLLUTION sign can be obtained by presenting your development application receipt at Council's Customer Enquiry Counter at 282 King Street Newcastle or at the Master Builders Association office.

Reason: To increase industry and community awareness of developer's obligations to prevent pollution and to assist in ensuring compliance with the statutory provisions of the Protection of the Environment Operations Act 1997.

- 5.20 All existing garden and lawn areas on the site being kept free of parked vehicles, garbage, trade waste or other extraneous material and being permanently maintained.

Reason: To ensure existing landscape embellishment of the site is properly maintained in the interest of preserving the visual amenity of the neighbourhood.

- 5.21 Any waste building materials being disposed of at Council's Waste Disposal Depot or other approved site.

Reason: To prevent indiscriminate dumping or use of demolition/waste building material for purposes of unauthorised land fill.

- 5.22 The proposed remediation works being carried out in accordance with the requirements set out in the submitted Remediation Action Plan prepared by RCA Australia Pty Ltd dated June 2010 and the requirements of the appointed NSW Department of Environment, Climate Change and Water (DECCW) accredited Site Auditor and the conditions of this consent.

Reason: To ensure the site is suitable for the intended use and to comply with public health standards.

- 5.23 A Validation Report prepared by an appropriately qualified environmental consultant in accordance with the Department of Environment, Climate Change and Water's (DECCW) *'Guidelines for Consultants Reporting on Contaminated Sites'* and *'Guidelines for the NSW Site Auditor Scheme'* being submitted to the Principal Certifying Authority (PCA) and Council prior to the issue of the Occupation Certificate.

Reason: To ensure the site is suitable for the intended use and to comply with public health standards.

- 5.24 A long-term Environmental Management Plan certified by the appointed NSW Department of Environment, Climate Change and Water (DECCW) accredited

Site Auditor being submitted to the Principal Certifying Authority (PCA) and Council prior to the issue of the Occupation Certificate.

Reason: To ensure contamination management controls are appropriately implemented and maintained and to ensure compliance with appropriate environmental and public health standards.

5.25 A Site Audit Statement and Site Audit Report prepared by the appointed NSW Department of Environment, Climate Change and Water (DECCW) accredited Site Auditor being submitted to the Principal Certifying Authority and Council prior to the issue of an Occupation Certificate.

Reason: To ensure the site is suitable for the intended use and to comply with public health standards.

5.26 The following activities associated with the operation of the proposed aged care facility being restricted to the following times:

Deliveries: 7:00am and 6:00pm daily

Waste collection: 7:00am and 6:00pm daily

Reason: To confirm the terms of consent and protect the amenity of the neighbourhood.

5.27 Prior to the issue of a Construction Certificate, the proponent preparing and submitting to the Principal Certifying Authority and Council an Environmental Management Plan (EMP) for construction works on the site, such to be kept on site and made available to authorised Council officers upon request. The EMP is to include but not be limited to:

- a) A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
- b) A water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water, groundwater. Procedures should also be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.
- c) A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions.
- d) A noise management and vibration strategy detailing measures to minimise the impact of the construction phase on the amenity of the locality in accordance with Australian Standard AS 2436. 1981 (Guide to Noise control on Construction, Maintenance and Demolition Sites). Noise and vibration monitoring during the construction phase should be incorporated into the program.

Reason: To prevent environmental pollution and to ensure compliance with relevant provisions of the *Protection of the Environment Operations Act 1997*.

5.28 Any material to be removed from the site being assessed, classified, transported and disposed of in accordance with the Department of Environment and Climate Change's (DECC) '*Waste Classification Guidelines Part 1: Classifying Waste*'.

Reason: To prevent environmental pollution and to ensure observance of appropriate health standards.

5.29 Any fill material imported into the site being Virgin Excavated Natural Material or material subject to a Resource Recovery Exemption that is permitted to be used as a fill material, in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment (Waste) Regulation 2005*.

Reason: To ensure that any imported fill is of an acceptable standard for environmental protection purposes.

5.30 Any fill material subject to a Resource Recovery Exemption received at the site must be accompanied by documentation demonstrating that material's compliance with the conditions of the exemption, and this documentation must be provided to Council officers or the Principal Certifying Authority on request.

Reason: To ensure that any imported fill is of an acceptable standard for environmental protection purposes.

5.31 Appropriate erosion protection and soil stabilisation measures being designed and implemented during site works in accordance with the requirements of the *Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1* (the "Blue Book") published by Landcom, 2004.

Reason: To control soil erosion and prevent sedimentation of surrounding lands.

5.32 All building or site works or other written undertaking or obligation indicated in the submitted plans and supporting documentation or otherwise required under the terms of this consent being carried out or implemented prior to issue if an Occupation Certificate.

Reason: To ensure compliance with the provisions of the Environmental Planning and Assessment Act 1979.

6 General Terms of Approval to be Obtained from Other Authorities

6.1 Working drawings and specifications of the proposed building being submitted to the NSW Mine Subsidence Board for approval prior, in accordance with the details set out in the attached letter from the NSW Mine Subsidence Board, prior to the determination of the Construction Certificate.

Reason: To ensure that structural stability of the proposed development having regard to underground mine workings.

6.2 Compliance in full with the attached General Terms of Approval under the Rural Fires Act, 1997, as stipulated by the NSW Rural Fire Service.

Reason: To advise of the necessity to comply with the requirements of relevant government authorities.

7 Advisory Matters

7.1 Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Act 1979 (the 'Act') are to be complied with:

- a) A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
- b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and form 7 of schedule 1 to the Regulations.
- c) Council is to be given at least two days notice of the date intended for commencement of building works, in accordance with Section 81A(2)(c) of the Act and Form 7 of Schedule 1 to the Regulations.

Reason: To advise of matters to be resolved prior to the commencement of work.

7.2 A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building and/or on the land and include a separate list of any fire safety measures that already exist at the premises. The lists must describe the extent, capability and basis of design of each of the measures.

Reason: To advise of information that must accompany an application for a Construction Certificate for the project.

7.3 Prior to the occupation of a new building, or, occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the erection of the building.

Reason: To ensure compliance with Section 109M of the Environmental Planning and Assessment Act 1979, as amended.

7.4 A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

Reason: To ensure compliance with Clause 172 of the Environmental Planning and Assessment Regulations.

Stage 1 (Proposed Wings 1 and 2 on the western portion of the site)

A.1 The proposed Stage 1 of the development being carried out strictly in accordance with the details set out on the amended plans by Jones Sonter received 11 November 2010 (Project No 090702 Dwg No DA 1.01, Rev DA 1,

DA 1.02, Rev DA 2, DA 2.01, Rev DA 2, DA 2.02, Rev DA 2, DA 2.03, Rev DA 2, DA 3.01, Rev DA 1, DA 3.02, Rev DA 1, DA 4.01, Rev DA 2, DA 4.02, Rev DA 1, DA 4.03, Rev DA 1) and the staging letter submitted by ADW Johnson dated 25 August 2010, except as otherwise provided by the conditions of this consent.

Note: Any proposal to modify the terms or conditions of this consent whilst still maintaining substantially the same development to that approved, will require the submission of a formal application for Council's consideration in accordance with the provisions of Section 96 of the Environmental Planning and Assessment Act, 1979.

Reason: To confirm and clarify the terms of Council's approval.

Stage 2 (Proposed Wing 3 on the eastern portion of the site)

B.2 The proposed Stage 2 of the development being carried out strictly in accordance with the details set out on the amended plans by Jones Sonter received 11 November 2010 (Project No 090702 Dwg No DA 1.01, Rev DA 1, DA 1.02, Rev DA 2, DA 2.01, Rev DA 2, DA 2.02, Rev DA 2, DA 2.03, Rev DA 2, DA 3.01, Rev DA 1, DA 3.02, Rev DA 1, DA 4.01, Rev DA 2, DA 4.02, Rev DA 1, DA 4.03, Rev DA 1) and the staging letter submitted by ADW Johnson dated 25 August 2010, except as otherwise provided by the conditions of this consent.

Note: Any proposal to modify the terms or conditions of this consent whilst still maintaining substantially the same development to that approved, will require the submission of a formal application for Council's consideration in accordance with the provisions of Section 96 of the Environmental Planning and Assessment Act, 1979.

Reason: To confirm and clarify the terms of Council's approval.

ATTACHMENT C

ATTACHMENT D