

JOINT REGIONAL PLANNING PANEL
(Sydney West Region)

JRPP No.:	2011SYW096
Development Application No.	DA/850/2011
Description of Proposal:	Demolition of existing structures and construction of a seniors living development comprising ninety-six self contained dwelling-houses and a community facility in six stages
Property Description:	Lot 22 DP 851940 Nos. 330 -334 Galston Road, Galston
Applicant:	Campbell Luscombe Architects
Owner:	Mr Frank Barba and Mrs Beth Barba
Statutory Provisions:	<p>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP)</p> <p>State Environmental Planning Policy (Infrastructure) 2007</p> <p>State Environmental Planning Policy No. 55 – Remediation of Land</p> <p>State Environmental Planning Policy No. 44 – Koala Habitat Protection</p> <p>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</p> <p>State Environmental Planning Policy – Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River</p> <p>Hornsby Shire Local Environmental Plan 1994 –</p> <p>Rural BA (Small Holdings-Agricultural Landscapes) Zone</p> <p>Special Uses B (Transport Corridor) Zone</p>
Estimated Value:	\$ 32 million
Number of submissions	Forty-three
Recommendation	Approval
Report Author:	Aditi Coomar – Senior Town Planner
Instructing Officers:	<p>Rodney Pickles – Manager, Assessments</p> <p>James Farrington – Acting Executive Manager, Planning Division</p>

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

1. The application proposes the demolition of the existing structures and construction of a seniors living development comprising ninety-six self contained dwelling-houses, community facility and ancillary works.
2. The proposal complies with the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.
4. Council received forty-three submissions upon notification of the application.
5. It is recommended that the application be approved.

RECOMMENDATION

THAT Development Application No. 850/2011 for demolition of the existing structures and construction of a seniors living development comprising ninety-six self contained dwelling-houses, community facility and ancillary works at Lot 22 DP 851940 Nos. 330 -334 Galston Road, Galston be approved as a deferred commencement consent pursuant to Section 80(3) of the *Environmental Planning and Assessment Act 1979* subject to the conditions of consent detailed in Schedule 1 of this report.

HISTORY OF THE SITE

The allotment was created via the subdivision of DP 601822 in 1995. The subject property has been historically used for agricultural purposes.

On 14 April 2009, Council conducted a pre-lodgement meeting regarding a seniors living development on the subject property. At the meeting, concerns were raised regarding the suitability of the site for the purpose of seniors living development.

On 14 February 2011, the Department of Planning issued a site compatibility certificate for the property pursuant to clause 25(4)(a) of *State Environmental Planning Policy (Housing for Seniors or people with a disability) 2004*.

THE SITE

The irregular shaped site comprises one rural parcel located on the northern side of Galston Road. The subject property has a total area of 3.71 hectares with a frontage of 209.3 metres to Galston Road.

The current improvements on the site include a dwelling-house with associated structures used for habitable purposes and a large dam. The majority of the site has been cleared for agricultural use and is currently being used as a fruit orchard.

The site slopes gently from the north-eastern corner towards the dam located near the south-western corner. The land then elevates slightly near the south-eastern corner at the Galston Road frontage. The majority of the site falls towards the road and the western boundary.

Council's mapping system indicates that a watercourse traverses the western section of the subject property and drains into the dam. However, the creek is not present on the site. A network of shallow drainage channels drain into the dam and a swale along the western boundary collects runoff from the site and the orchard. The dam water is reused for irrigating the orchard.

The site is accessed via a driveway off Galston Road. The following restrictions apply to the site:

- A 3.5 metre wide right-of carriageway benefitting the site, located on the eastern boundary providing access to Lot 1 DP 601822 at the rear;
- A road widening restriction-as-to-user (J298132 - width varying between 6.3 metres and 10.5 metres) along the frontage of the site, imposed by the NSW Roads and Maritime Services (RMS); and
- A further 15 metre wide restriction-as-to-user (imposed by Hornsby Shire Council vide DP 601822), located at the rear of the RMS reserve, burdens the site along the entire Galston Road frontage and restricts the erection of any buildings or structures.

The total width of the Restricted Development Area is 25 metres from the Galston Road frontage.

The site forms part of the rural area adjoining the eastern boundary of Galston village. The village is a compact urban area clearly distinct from the surrounding rural area as defined by Galston Road and Mid-Dural Road on the southern side. The rural area includes a range of small scale agricultural enterprises including horticulture and grazing. A number of holdings are primarily rural/residential and not used in commercial production. A small holding comprising residential use is located on the eastern side of the subject property.

The site is located approximately 200 metres east of Galston Village Shops (at the intersection of Arcadia Road and Galston Road) and about 500 metres from the Galston Medical and Community Centre.

A few trees, being part of remnant *Sydney Turpentine – Ironbark Forest* (STIF) and listed as endangered ecological community, are located adjoining the eastern boundary of the gravel driveway (right-of-carriageway). A number of trees are also located surrounding the dam.

THE PROPOSAL

The proposal is for the demolition of existing buildings, filling of the dam and construction of a Seniors Living development comprising ninety-six self-contained dwellings, a community centre, landscaping works and waste water management

facility. The proposed development is to operate as a retirement village, in accordance with the *Retirement Villages Act 1999*.

The details of the development are as follows:

- Thirty-eight single storey self contained dwelling-houses (twenty five x 2-bedroom houses and thirteen x 3-bedroom houses) including four attached and thirty-four detached houses, single garages for each dwelling with additional car space on the access driveway;
- Fifty-eight self contained units accommodated in three apartment blocks (numbered as Blocks A, B and C in the site plan) with car parking located at the basement level. The basements would include a total of fifty-eight car spaces. Each block would be two-storey in height. The units would include:
 - 42 x 2-bedroom units
 - 16 x 2-bedroom + study units
 - 6 x 3-bedroom units
- The proposed site plan involves a central accessway, bifurcating into two north-south orientated driveways with cluster housing formations in between them, apartment Block A on the western side and apartment blocks B and C on the eastern side. The internal driveway on the western side continues to the north and terminates into an east-west orientated driveway at the rear, providing access to the remaining self contained dwelling-houses and the community centre. The curl-de-sacs would facilitate garbage truck turning within the site.
- The proposed development is to occur in six stages as follows:
 - **Stage 1:** Construction of thirteen single-storey dwelling-houses within the front section of the site internal roads with garbage truck turning area, waste water pump-out facility and visitors parking spaces. One of the dwelling-houses is proposed to be utilised as the temporary community facility.
 - **Stage 2:** Construction of fourteen single-storey dwelling-houses at the rear including four attached dwellings and internal roads with garbage truck turning area.
 - **Stage 3:** Construction of the community facility on the site. The centrally located community centre would provide recreation space, medical services, kitchen and dining area. Four visitor car parking spaces including one disabled space are to be located on the western side of the centre.
 - **Stage 4:** Construction of eleven single-storey dwelling-houses at the rear and ancillary roads with garbage truck turning area.
 - **Stage 5:** Construction of apartment blocks B (fourteen units) and C (sixteen units) on the eastern side.

- **Stage 6:** Construction of apartment block A with twenty eight units on the western side.

- The proposed gross floor areas are as follows:

Dwelling Houses			
House Type	Proposal	Total Nos.	Total Floor Area
House Type 1 (2 bed)	154 sqm	15	2310 sqm
House Type 2 (3 bed)	167 sqm	6	1002 sqm
House Type 3 (2 bed)	153 sqm	13	1989 sqm
House Type 4 (2 bed)	151 sqm	4	604 sqm
Apartments			
Type A (2 bed)	100 sqm	36	3600 sqm
Type B (2 bed and study)	124 sqm	6	744 sqm
Type C (2 bed and study)	119 sqm	8	952 sqm
Type D (2 bed)	106 sqm	4	424 sqm
Type E (2 bed and study)	121 sqm	2	242 sqm
Type F (2 bed)	100 sqm	2	200 sqm
Circulation			698 sqm
Community Centre	415 sqm	1	415 sqm
Total Floor area			13180 sqm

- The development is to be designed in a residential style with a range of finishes and materials including face brick walls, bagged and painted brick walls and tiled roofs. The gable ends of the roofs would be faced with fibre cement board to provide a weatherboard appearance. The upper storey sections of the apartment blocks would also include weatherboard.
- The Galston area is not connected to Sydney Water sewerage infrastructure. The proposed waste water management system involves a waste water storage facility and pump out within the restricted development area fronting Galston Road. A separate entry and exit driveway off Galston Road, is provided for the pump-out truck access.
- The development includes landscaping works along the Galston Road frontage, around the Community centre and the perimeters.
- According to the applicant's advice, the retirement village would accommodate a maximum of 118 people upon completion.

ASSESSMENT

The development application has been assessed having regard to the '*Metropolitan Plan for Sydney 2036*', 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). The following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Metropolitan Plan for Sydney 2036 and (Draft) North Subregional Strategy

The *Metropolitan Plan for Sydney 2036* 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 2036; 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 its preparation of the *Comprehensive LEP* by the end of 2012.

The *Draft North 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 focus of the Metropolitan Strategy over the next 25 years is to accommodate more residential growth in existing urban areas through urban consolidation and concentrated housing growth around centres on major transport routes.

In this regard, the development is inconsistent with the broader aim of the Strategy which aims to protect resource and agricultural lands from urban development and to maintain the character of the rural lands. However, the *State Environmental Planning*

Policy (Housing for seniors or People with a Disability) 2004 enables seniors living developments to be built on rural lands that adjoin accessible urban land. The Department of Planning and Infrastructure has issued a site compatibility certificate for the site identifying it to be suitable for the proposed development.

Given the above direction provided by the State Government, the proposed location of the development is considered acceptable.

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 regulations*”.

2.1 Hornsby Shire Local Environmental Plan 1994

The subject land is zoned Rural BA (Small Holdings – Agricultural Landscapes) and Special Uses B (Transport Corridor) Zone under *Hornsby Local Environmental Plan 1994 (HSLEP)*. The building works would be restricted to the rural zone only. 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 *HSLEP* and is prohibited in the zone.

The residential area on the western boundary of the site is zoned Residential AR (Low Density – Rural Village). In this regard, the proposed development is permissible pursuant to the adjoining lands provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* which apply to the subject site. The compliance of the proposal with regard to the provisions of the SEPP is discussed later in this report.

Clause 18 of *HSLEP* sets out heritage conservation provisions within Hornsby Shire. The site does not contain, nor is in the vicinity of, a heritage item or a heritage conservation area. No further assessment in this regard is necessary.

2.2 State Environmental Planning Policy No. 55 – Remediation of Land

The aim of the *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55) is to promote remediation of contaminated land, reducing the risk of harm to human health and the environment. The Policy requires the consideration of soil contamination in the development application assessment process. The applicant has

submitted a Preliminary Environmental Site assessment report to address the requirements of the *SEPP 55*. The assessment includes a history of the agricultural use of the site. The preliminary assessment determines soil contamination below detectable levels for heavy metals, hydrocarbons and pesticides. However, asbestos contamination and contaminated fill was found on the site. The report recommends that the site would be suitable for the proposed use subject to removal of the asbestos and building materials.

Conditions of consent would ensure that the site is remediated prior to commencement of works, the soil is tested prior to disposal and a validation report is prepared in accordance with the relevant guidelines. The proposal development is acceptable with regard to *SEPP 55* provisions, subject to the implementation of the recommended conditions.

2.3 State Environmental Planning Policy – Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River

The site is located within the catchment of the Hawkesbury Nepean River. Part 2 of this Plan contains general planning considerations and strategies requiring Council to consider the impacts of the proposal on water quality, scenic quality, aquaculture, recreation and tourism.

Subject to the implementation of sediment and erosion control measures, stormwater management and wastewater management to protect water quality, the proposal would comply with the requirements of the Policy.

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

The provisions of this Policy apply as the site area is greater than one hectare. The site is generally cleared land. Exotic tree species are prevalent in the plantings with a few trees on the eastern side being remnant STIF species. The trees do not represent a potential or core koala habitat. Accordingly, no further consideration of the Policy is required.

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

The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State.

BASIX Certificates for the residential component of the development have been submitted. The certificates confirm that the proposed development meets the NSW Government's requirements for sustainability. The development meets the water and energy performance targets, achieves a pass for thermal comfort, and includes provision for 5000L rainwater tanks for each of the apartment blocks and 1000L water tanks for the individual dwellings.

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

The Policy prevails to the extent of any inconsistency with any other environmental planning instrument.

The *SEPP* is the overriding planning instrument for the development of housing for aged and disabled people in NSW and provides for hostels, residential care facilities (nursing homes) self contained dwellings and multi-storey buildings. The *SEPP* is comprehensive in scope including land use planning provisions, design principles, development standards and standards specifically to meet the housing needs of aged and disabled people. Relevant clauses of the *SEPP* are addressed below.

2.6.1 Land adjoining land zoned primarily for urban purposes (Clause 17)

The *SEPP* was amended in September 2007 to enable the provision of seniors housing in appropriate locations. The *SEPP* makes provision for development for “*serviced self-care housing*” under the *Retirement Villages Act 1999*, on land that adjoins an urban zone; subject to the site being certified by Department of Planning and Infrastructure, as being suitable for more intensive development, pursuant to a Site Compatibility Certificate.

The subject land adjoins Galston Village to the east and Galston Road to the south. The area of the site adjoining urban land represents 44% of the surrounding area when measured as a percentage of the boundaries of the site. The proposed development is therefore, a permissible land use on the site pursuant to this Clause. A Site Compatibility Certificate has been issued by the Department of Planning and Infrastructure and is included with the application.

2.6.2 Site Compatibility Certificate (Clause 24)

The application for a Site Compatibility Certificate (SCC) was the subject of concerns raised by Council when the application was made under Clause 25 of the *SEPP*. Specifically, Council raised objections to the proposal on the grounds that it is incompatible with the surrounding land uses and that the site is unsuitable in regards to available services. Notwithstanding Council’s concerns, on 14 February 2011 the Department of Planning and Infrastructure issued a SCC for the subject site for development for ninety-six serviced self care housing units and a community centre, subject to requirements (refer attached).

The submitted development application in the form presented generally addresses the requirements under Items 1, 2, 3, 5, 6, 9 and 10 of the SCC which require compliance with Clauses 50 (b), (c), (d) and (f), height of the buildings not exceeding two storeys, number of dwelling units not exceeding ninety-six, dwellings to be sited to maximise accessibility to infrastructure, the minimum area of the community centre to be 300 sq metres and the contamination issues relating to the previous uses on the site to be addressed. These matters are assessed in detail in this report.

Item 4 of the SCC requires Council to be satisfied that the site would operate as a retirement village comprising “serviced self care” units and that management mechanisms are in place on the site as required by Clause 42. In this regard, the applicant has provided a Draft Service Agreement and a draft letter from a local healthcare facility confirming the provision of the meals, services and healthcare to future occupants demonstrating compliance with Clause 42 and the SCC.

Item 7 of the SCC requires the applicant to demonstrate adequate waste water treatment infrastructure and the availability of reticulated sewer. It is considered that this requirements would be satisfactorily addressed subject to a deferred commencement condition (refer to section 2.6.4 of this report). The recommended condition requires that documentary evidence be provided to Council demonstrating that a licence has been granted under the *Water Industry Competition Act 2006* (WICA) for the design, installation and operation of the proposed on-site sewage management system or, alternatively, evidence that a licence is not required by the NSW Independent Pricing and Regulatory Tribunal. Detailed design of the on-site sewerage management system is also to be provided to Council prior to the consent being operative.

Item 8 requires buffer setbacks to be provided to all boundaries in accordance with Council's *Rural Lands Development Control Plan (Rural Lands DCP)*. The following table provides an assessment of the proposal in this regard:

Standard (Setback)	Provided	Required by Rural DCP	Compliance
Front (Galston Road)	25m	30m	No
Eastern Side – Lot 21 DP 851940	3m	15m	No
Eastern Side (remaining section)	15m	15m	Yes
Northern side (rear)	15m	15m	Yes
Western side (apartment)	7m	15m	No
Western side (remaining section)	15m	15m	Yes

As indicated in the above table, the proposal does not strictly comply with setback requirements of the *Rural Lands DCP*. The objective of the “*Setbacks*” element is *‘To provide setbacks that compliment the rural and village character, provide for landscaping and protect the privacy of adjacent dwellings.’*

The *Rural Lands DCP* requires that development proposals incorporate a 30 metre setback to Galston Road. The site adjoins urban land to its west where a 6 metre front setback applies. Within the site, only apartment block B would have a setback of 25 metres which would increase to 30 metres for the self contained dwelling-houses at the centre. The residential development on the south-east also provides a setback of 25 metres to Galston Road. Given that the development is not located forward of the existing building line and that an appropriate landscaped buffer is provided along the frontage, the front setback complies with the objectives of this control.

The *Rural Lands DCP* states that the side setbacks in the rural areas should be 15 metres from all property boundaries. Small lots, unable to meet these setbacks should provide as great a setback as practical from the boundaries. The eastern side setbacks of two balconies of Block B do not comply with this requirement. All other buildings would generally maintain a setback greater than 15 metres. The two balconies in question would adjoin the rural/residential allotment to the east where the building has a setback of 1 metre from the separating boundary. Given the irregular shape of the

block in this section and the nature of the adjoining development, the numerical non-compliance is considered acceptable. Landscaped screening and privacy louvers on upper level balconies are proposed to minimise privacy impacts on adjoining residential properties.

On the western side, adjoining Galston Village, Block A would have side setbacks of 7 metres – 10 metres. The remaining section of the site would have a setback greater than 15 metres. Given that the site forms a transition between the village area and the rural lands, the setback is considered appropriate with landscaped screening and privacy louvers provided on the upper level balconies.

Further to the non-compliance of the proposal with the requirements of the SCC, it is also noted that the environment surrounding the site to its north and east is primarily rural with a dwelling density of 1.58 dwellings per hectare. The proposed development has a dwelling density of 30.9 dwellings per hectare. The urban zoned area adjoining the site has a dwelling density of 5.67 dwellings per hectare. The proposed development represents a major urban expansion into the rural area which surrounds the village of Galston. However, in a recent Land and Environment Court appeal *"Treysten Pty Ltd vs Hornsby Shire Council"* for a similar development at 392 Galston Road and 5 Mid-Dural Road, the Court determined that a Seniors Living development is a permissible use on rural land adjoining an urban area and would result in a compatible development, subject to satisfactory setbacks, landscaping and built form design. Accordingly, based on the Department's decision to issue a SCC and the Court's decision on previous developments on similar sites, the site would be compatible for the proposed use.

2.6.3 Location and Access to Facilities (Clause 26)

The site is located within 200 metres of the Galston Village centre. Pedestrian access to shops, retail, banking, commercial services, community services, recreation facilities and medical practitioners would be via a public footpath complying with the *SEPP* requirements. The site is gently sloping and it is considered that the required gradients within the site could be achieved by design. The access from the public transport services to the shops are also via pathways that comply with the grades as required by the *SEPP*.

The proposed development is served by Hills Bus routes 637 and 638. Both routes have bus stops located on Galston Road and to the west of Arcadia Road. These bus stops are approximately 300 metres and 400 metres from the entrance to the proposed development. However, Route 637 has one AM and one PM service that passes the entrance to the proposed development. Route 638 of Hills Buses provides connection to Glenorie, Round Corner and Castle Hill. The service operates Monday to Friday and includes a reduced service on Saturdays.

The availability of the bus services via the above bus routes would comply with the *SEPP* requirement for a bus service at least once between 8am and 12pm and also between 12pm and 6pm, Monday to Friday.

The applicant 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 for medical appointments, event outings etc. Appropriate conditions are proposed to ensure compliance with this proposal.

2.6.4 Water and Sewer (Clause 28)

Pursuant to the *SEPP*, Council must be satisfied that the provision of water and sewerage infrastructure is satisfactory for the proposed development.

Reticulated Water

The site is connected to Sydney Water reticulated potable water supply. In this regard the applicant has submitted a letter from Sydney Water dated 9 September 2010 which included the following advice.

- *The existing 140 mm AC drinking water main needs to be upsized to a 150 mm main from point 'A' (corner of Galston Road and Arcadia Road) to point 'B' (in front of the site – 'B' is 2 metres past the point of connection).*
- *A water main will be available, once you have completed your water main construction, to provide you development with a domestic water supply. The size of your development means that you will need a connection larger than the standard 20 mm size.*

Water for fire fighting

Sydney Water has advised that the water main would not be adequate for fire fighting purposes. Details of water supply and water pressure requirements of the NSW Fire Brigade for the proposed development have also not been provided with the application. In this regard, the applicant advises that Clause 28 of the *SEPP* does not refer to fire fighting considerations at the development application stage. This matter can be detailed in the Construction Certificate stage of the development.

Sewerage services

The site is presently not sewered. However, in November 2011, Galston has been identified as one of the priority areas in Sydney Water's Priority Sewerage Programme. In this regard, the Operating License of Sydney Water includes that sewerage would be provided to Galston and Glenorie by 30 June 2015. Should this be the case, the subject site would be connected to the newly created sewerage network in the near future.

Notwithstanding the above, the provision of sewerage infrastructure to service the development has been assessed in relation to the current situation and the relevant matters are discussed below:

Pump-out system

The proposal is for a waste water storage and pump-out system. The following matters have been considered:

Odour

Public submissions raise concerns about the impact of odour from tankers on adjoining residences. The submissions comment that foul odour may impact on

dwelling adjacent to the sullage tanker parking location during pump out services, particularly the dwellings on the upper level of the Apartment Block A.

It is noted that each tanker is to be fitted with an activated carbon air filter on the air vent to reduce the odour from the displaced air. The applicant advises that *'the pump out pit is provided with "kamlock" coupling/s which the tanker operator directly connects his hose and pumps out the contents to the tanker. There is no need to lift any pit inspection covers during the process.'*

Given the above, it is considered that the impact on the residents and the adjoining neighbours, due to odour would not be significant.

Tanker parking location and vehicle turning areas

Separate tanker access is proposed with landscaping provided between the access drive and residential development. The tank location and the pump-out truck turning areas are considered to be satisfactory.

Licensing

The proposed waste water management system is subject to the provisions of the *Water Industry Competition Act 2006* which require a license to be obtained from the Independent Pricing and Regulatory Tribunal (IPART). Under the Act, the license must be obtained to construct, maintain and operate the proposed system. Applications for a license are subject to assessment by IPART in consultation with relevant authorities responsible for administration of the *Public Health Act 1991*, the *Water Management Act 2000*, the *Environmental Planning and Assessment Act, 1979* and the *Protection of the Environment Operations Act 1997*. The IPART licensing regime applies to the proposed development following gazettal of the *Water Industry Competition (General) Amendment (Licensing Exemptions) Regulation 2010* on 17 December 2010.

The provision of water supply and sewer are subject to approval by IPART for the proposed development. The applicant has not provided information to demonstrate a license would be granted by IPART. The proposal is therefore considered uncertain in respect to water and sewer services.

In the Land and Environment Court appeal *"Treysten Pty Ltd vs Hornsby Shire Council"* for seniors housing on a site at 392 Galston Road and 5 Mid-Dural Road which is not sewered and would require similar permits as above, the Commissioners determined that *'the granting of appropriate approvals and licenses by Sydney Water must occur prior to any consent for the site becoming operative and this can be assured by way of deferred commencement provisions.'*

Given the above, a similar approach has been adopted for this application and a deferred commencement approval is recommended requiring the applicant to obtain appropriate approvals and licenses from the relevant public authorities, to satisfy the requirements of Clause 28 prior to the consent being operative.

2.6.5 Site analysis (Clause 30)

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.

2.6.6 Neighbourhood amenity and streetscape (Clause 33)

The impact of the development on neighbourhood amenity and streetscape and the design of the development are assessed in detail in this report.

2.6.7 Visual and acoustic privacy (Clause 34)

The site adjoins neighbouring residences to the west and partly to the east. Landscape buffers are provided along the boundaries to facilitate privacy to adjoining rural and residential properties. The apartment blocks are located fronting the street to maintain visual privacy of the adjoining rural properties to the north and the east.

An acoustic report has been submitted with the application which recommends 1.8 metre perimeter fencing on the northern, western and eastern boundaries and acoustic treatment to those units that would otherwise be affected by traffic noise from Galston Road. Acoustic treatment of the proposed units is recommended as a condition of consent. The proposed fences along the side and the rear property boundaries and the provision of privacy louvers on the upper level balconies of the apartment blocks, located in close proximity to the adjoining developments, would assist in maintaining the visual and acoustic privacy of the adjoining residents. Appropriate conditions of consent are recommended accordingly.

2.6.8 Solar access and design for climate (Clause 35)

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

2.6.9 Stormwater (Clause 36)

The application addresses overland flow paths through the site via a Flood Study. The proposed stormwater drainage system includes on-site detention to minimise runoff impacts on downstream waterways.

2.6.10 Crime Prevention (Clause 37)

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

2.6.11 Accessibility (Clause 38)

The development has been designed to achieve 100% wheelchair accessibility within units, between units, to the community facility and the landscaped areas. The proposed development has obvious and safe pedestrian links from the site to public transport services and Galston village. Adequate access and parking is provided for residents and visitors.

2.6.12 Waste Management (Clause 39)

Adequate waste storage and collection facilities are available. The application provides details of bin storage areas for the individual dwellings as well as for the apartment blocks. The internal roads are designed to cater for garbage truck access to and from the site. The applicant advises that the management body for the retirement village would be responsible for placement of bins for the apartment blocks along the internal roads to enable collection.

2.6.13 Development Standards (Clause 40)

The site area of 3.1 hectares exceeds the minimum area of 1000 sq metres in Clause 40(1)(2). The property has a frontage of 209 metres to Galston Road, well in excess of the minimum of 20 metres in Clause 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 as the site is zoned Rural. Notwithstanding, the development comprises a mixture of single and two storey units in conformity with the standards. The two storey apartment blocks would be of similar height to the Galston Shopping Village located within 200 metres of the site.

2.6.14 Standards for hostels and self contained dwellings (Clause 41)

This clause provides development standards to ensure an adequate level of access for people with disabilities. The application includes an Access Report that addresses the controls in the *SEPP*. Compliance with the controls are discussed below and reinforced by conditions of consent.

Clause	Provision	Compliance	Comments
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. Lifts/ramps are provided in apartment blocks. The access report certifies that all gradients are suitable for wheelchair access.
2(3)	Security: Pathway lighting.	Yes	Low level lighting is proposed adjacent to all pathways, courtyards and dwelling entrances.
2(4)	Letterboxes:	Yes	Provided at the community centre.
2(5)	Private car accommodation If car parking (not being car parking for employees) is provided:		
	(a) car spaces must comply with AS2890, and	Yes	The Access Report advises that the units comply.
	(b) 5% of total number must be designed to enable width to be increased to 3.8 metres.	Yes	The Access Report advises that 5% of the total number comply. All garages on individual dwellings comply.

	(c) Garage with power operated doors	Yes	Compliance can be achieved via conditions of consent.
2(6)	Accessible entry Every entry must comply with AS4299.	Yes	The Access Report advises that the units comply. Compliance can be achieved via 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 comply with AS1428.1. Compliance can be achieved via conditions 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 Access Report advises that the units comply with AS1428.1. Compliance can be ensured via condition of consent.
2(9)	Bathroom At least 1 bathroom to comply with AS1428.1	Yes	The Access Report advises that the units comply with AS1428.1. Compliance can be ensured via condition of consent.
2(10)	Toilet Provide a visitable toilet per AS4299.	Yes	The Access Report advises that the units comply with this provision. Compliance can be ensured via condition of consent
2(11, 12 and 13)	Surface finishes, Door hardware, Ancillary items Slip resistance surfaces.	Yes	Compliance via a condition of consent recommended and as per Access Report advice.
2(15)	Living room and dining room Circulation space per AS4299.	Yes	The Access Report advises that the units comply with this provision. Compliance can be ensured via condition of consent.
2(16 and 17)	Kitchen and Access Circulation space per Cl.4.5.2 of AS4299. Width of door approaches of 1200mm.	Yes	The Access Report advises that the units comply with this provision. Compliance can be ensured via condition of consent.
2(18)	Lifts Lifts in multi-storey buildings	Yes	Lifts proposed for blocks A, B and C
2(19)	Laundry Width of door approach to be 1200mm Clear space in front of appliances of 1300mm.	Yes	The Access Report advises that the units comply with this provision. Compliance can be ensured via condition of consent.
2(20)	Storage for Linen Linen cupboard per AS4299.	Yes	Linen cupboards provided.
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.
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2.6.15 Serviced self-care housing (Clause 42)

The applicant advises that all required on-site services and facilities would be provided to the residents. In this regard, a Draft Service agreement format and a letter from a local healthcare service expressing interest in providing services to the centre in the future, have been submitted. It is considered that this satisfies the requirements of Clause 42, subject to a condition requiring that these facilities and services be finalised prior to the issue of an occupation certificate.

2.6.16 Transport Services to local centres (Clause 43)

Local bus services are available with bus shelters being located within a reasonable distance to provide access for residents to the local centres. Additionally, the applicant advises that a shuttle bus service would be provided for the residents if required. Appropriate conditions are recommended to ensure provision of transport services.

2.6.17 Availability of facilities and services (Clause 44)

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

2.6.18 Standards that cannot be used to refuse development consent for self contained dwellings (Clause 50)

Clause	Provision	Compliance
50(a)	Building Height Maximum 8 metres from ceiling to pre-development ground level.	Yes Max height 8m
50(b)	Density and Scale Maximum FSR 0.5:1.	Yes 0.36:1
50(c)	Landscaped Area Min 30% of the site area.	Yes 44.5%
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 <i>Apartment blocks</i> Hourly shadow diagrams and solar access tables provided for the apartment blocks demonstrate that 70% of the units would comply with this requirement. <i>Dwelling-Houses</i>

		> 70% of the dwelling-houses comply within this requirement.
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. <i>Note: This development standard applies to infill self care housing.</i>	N/A This clause does not apply to serviced self-care housing developments, however was a requirement of the SCC for the subject site. Notwithstanding the above, it is noted that the single storey units include private open space areas which exceed 15 sq metres. The upper floor units of the apartment blocks include a minimum of 10 sq metres. Seven of the ground floor units for Block A and majority of the ground floor units for Block B and C have 12 sq metres of private open space. However, most of these units are elevated from the ground, so cannot be strictly considered as ground level units. Further, there is ample communal open space within the site to cater for the residents. Therefore this is considered acceptable.
50(h)(i)	Parking <i>Single dwellings</i> Minimum of 0.5 car spaces for each bedroom. – total requirement 41 spaces Apartment Blocks Minimum of 0.5 car spaces for each bedroom – total requirement 58 spaces	Yes – 44 spaces provided 1 space / dwelling for 32 x 2-bedroom dwellings 2 spaces/dwelling for 6 x 3-bedroom dwellings (one space within the garage and one space on the driveway) The dwelling-houses can accommodate visitors' cars on the driveways. Yes 58 spaces provided in two levels of basement. Visitors parking provided at the basement level and near the community centre.

2.7 State Environmental Planning Policy (Infrastructure) 2007

The application has been assessed against the requirements of *State Environmental Planning Policy (Infrastructure) 2007*. This Policy contains State-wide planning controls for developments adjoining busy roads. The development is located immediately adjoining a classified road corridor (Galston Road) and the following matters have been considered in this regard:

2.7.1 Development with frontage to a classified road

The proposal has been assessed against the requirements of Clause 101 of *SEPP (Infrastructure)* as the site has frontage to Galston Road and proposes new vehicular access from the road.

Council's assessment of the proposal concludes that the existing driveway complies with AS/NZS 2890.1:2004 and the location of the driveway is satisfactory. The proposed development was referred to the NSW Roads and Maritime Services (RMS) for concurrence under Section 138 of the *Roads Act 1993*. No objections have been raised regarding the driveway location subject to implementation of recommended conditions regarding removal of all proposed Zebra Crossings.

2.7.2 Impact of Noise

The application was referred to the RMS for comments. The RMS has advised that the development should be designed to mitigate the traffic noise and vibration from Galston Road to comply with Clause 102 of *SEPP (Infrastructure)*.

It is noted that Clause 102 of *SEPP (Infrastructure)* does not apply to the development as Galston Road is identified as a road with an annual average daily traffic volume of less than 40,000 vehicles (based on the traffic volume data published on the website of the RMS). Therefore, no further assessment with regard to impact of road noise on the development is required.

Notwithstanding the above, the proposed construction technique and acoustic attenuation measures in the Noise Assessment Report are to be implemented during construction of the development and are recommended as a condition of development consent.

2.7.3 Traffic Generating Development

The proposed development provides direct vehicular and pedestrian access to a classified road. The development is classified as a Traffic Generating Development in accordance with Clause 104 and Schedule 3 of *SEPP (Infrastructure)* as it is defined as "Area used exclusively for parking or any other development having ancillary parking accommodation" with frontage to a classified road and accommodating "50 or more vehicles". The application includes a Traffic and Parking Report which indicates that the proposed development would generate a maximum of 21 vehicular trips per hour during peak.

The application was referred to RMS for comments in this regard. No objections have been raised with regard to traffic generation.

2.8 Rural Lands Development Control Plan

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

The performance of the development against the generic controls in the *Rural Land DCP* is discussed further below:

2.8.1 Rural Character and Visual Amenity

This matter has been discussed in detail in this report. A site compatibility certificate has been issued by the Department of Planning and Infrastructure certifying that the site is suitable to accommodate the scale and intensity of the development as proposed.

2.8.2 Dwelling Design

The objective of the *'Dwelling Design'* element in the *Rural Lands DCP* 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 proposed self contained single storey dwelling-houses provide a pitched roof form that is predominant in the area. A varied range of finishes and materials are proposed that are consistent with the existing character of development within the village.

2.8.3 Setbacks

An assessment of the proposed development against the *"Setback"* element of the *Rural Lands DCP* has been provided in detail under Section 2.6.2 of this report. The application is acceptable with regard to the proposed setbacks and complies with the objectives of the control.

2.9 Access and Mobility Development Control Plan

The primary purpose of the *Access and Mobility Development Control Plan* is to assist proponents and Council in ensuring requirements for equitable access are satisfied when building work is proposed.

The development is designed to provide suitable access for people with disabilities as discussed under *SEPP (Housing for Seniors or People with a Disability) 2004*. Compliance is also ensured via appropriate conditions of development consent.

2.10 Waste Minimisation and Management Development Control Plan

The proposed waste management system to be adopted in the operation of the retirement village includes individual bins for the dwelling-houses and a shared bin system for the apartments. Subject to conditions of consent being implemented, the proposed development is acceptable with regard to waste management.

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

2.11 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 application includes water sensitive urban design elements including rain water tanks. Subject to provision of

erosion and sediment control measures during the demolition and construction phases of the development, the proposal would satisfy the provisions of the DCP.

2.12 Section 94 Contributions

Section 94 contributions would apply to the ninety-five additional dwellings proposed. The requirement is proposed to be levied as a condition of consent.

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

3.1.1 Trees

The site has been predominantly cleared for agricultural use other than for remnant trees along the eastern boundary. The vegetation in this area is identified as an endangered ecological community *Sydney Turpentine-Ironbark Forest* (STIF). The proposed development is designed to retain this vegetation and would not have a significant impact upon the species, populations and endangered ecological communities listed under the *Threatened Species Conservation Act 1995*.

The development would result in the removal of numerous trees on the site including those surrounding the dam. None of the trees are considered to be significant. A number of Radiata pine trees are located on the adjoining property to the west. Conditions of consent would ensure protection of the trees.

3.1.2 Dam water

The proposed development would require emptying the existing dam of water. The engineering plans, submitted with the application, specify that the dam water would be pumped out using a dewatering pump assembly within five days. The pumping rate would be approximately 5 litres/second. The outlet pipe would be located adjacent to the existing swale and provided with a scour protection outlet.

Council’s engineering assessment concludes that the dewatering system is considered satisfactory.

3.2 Built Environment

The proposed development forms an urban enclave within a rural landscape. The following matters are considered in this regard:

3.2.1 Galston Village and Rural Character

Galston Village is a compact rural village with a range of shops and community facilities servicing the village and surrounding rural area.

Council's *Rural Lands DCP* includes The Galston Village Master Plan which provides urban design guidelines to enhance the rural character of the village as a compact urban area clearly defined by the road network and separate from the surrounding rural area. The proposal would result in an urban extension into the rural area surrounding the village and would be inconsistent with Council's desired future character for the area as established under the *HSLEP* and *Rural Lands DCP*.

Compatibility of such denser forms of development with rural character has been a major issue for consideration in Land and Environment Court (LEC) appeals for a number of previous *Seniors Living* approvals within the Hornsby Local Government Area including the recent LEC Appeal "*Treysten Pty Ltd vs Hornsby Shire Council*" for a seniors' living development at No. 392 and No. 5 Mid Dural Road Galston (DA/484/2011). Based on the previous decisions of the Court, it is understood that subject to appropriate setbacks, landscaped buffers, height, design and servicing developments proposed under the provisions of *SEPP(Housing for Seniors or People with a Disability) 2004* are acceptable on rural areas adjoining urban land. To the extent of any inconsistency between the *HSLEP* and the *SEPP*, the *SEPP* prevails.

Accordingly, although the proposal would be inconsistent with the planning strategy embodied within Council's planning controls to maintain the character of rural lands, the aim of the NSW State Government's policy to promote opportunities for housing for an ageing population prevails.

3.2.2 Broader Implications

The proposed development is one of three rural sites subject to current SCCs. DA/484/2011 has recently been approved by the LEC. Should the development consent be activated, it would result in seventy six independent living units and community facility at No. 392 and No. 5 Mid-Dural Road, Galston. Another site at 353 Galston Road has been nominated for thirty dwellings.

Galston Village includes approximately 400 dwellings. The subject proposal together with the other two sites subject to SCCs would increase the number of dwellings in the village by 50%. The implication of the scale of this increase in seniors' population in the village has not been subject to any planning study to examine social impacts, infrastructure provision and provision of community facilities and services.

However, given that a SCC has been issued for the site by the Department of Planning and Infrastructure, the proposal has been assessed having regard to the compliance of this particular site with the development standards within the *SEPP* and is considered to be satisfactory.

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.

However, it is noted that the proposal would increase the proportion of seniors housing in Galston which is currently 7% of housing within the village area. This would impact on the existing medical and health services in the locality. The applicant

has addressed this by providing details of on-site servicing to cater for residents in the future.

3.4 Economic Impacts

The proposal would have a minor positive impact on the local economy by generating an increase in demand for local services.

4. SITE SUITABILITY

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

The site does not constitute flood prone or bushfire prone land. The subject property constitutes rural land and is currently used as a fruit orchard. The approval of a seniors living development on the site would result in loss of viable agricultural land within the Shire. In this regard, the applicant has provided supporting documentation and extracts from the Rural Lands Studies which state that the ‘*five acre lots are not viable for supporting family units when used for horticulture or other cropping except in very specialised forms of the horticulture industry*’.

The use of similar properties in Hornsby Shire for agricultural uses indicates that such rural lands are viable for conducting various horticultural and agricultural uses and can result in local employment and generation of local produce. A number of development applications have been approved by Council in the recent years in rural areas for specialised agricultural facilities to improve production and viability of agriculture.

However, as stated in the previous sections of this report, the *SEPP* permits seniors living developments on land adjoining urban land. The site fits within this category as it adjoins the Galston Village and is within a walking distance of the shops and commercial services provided in the Village centre. In case of any inconsistencies between the zone objectives of the *HSLEP* and the objectives of the *SEPP*, the *SEPP* prevails.

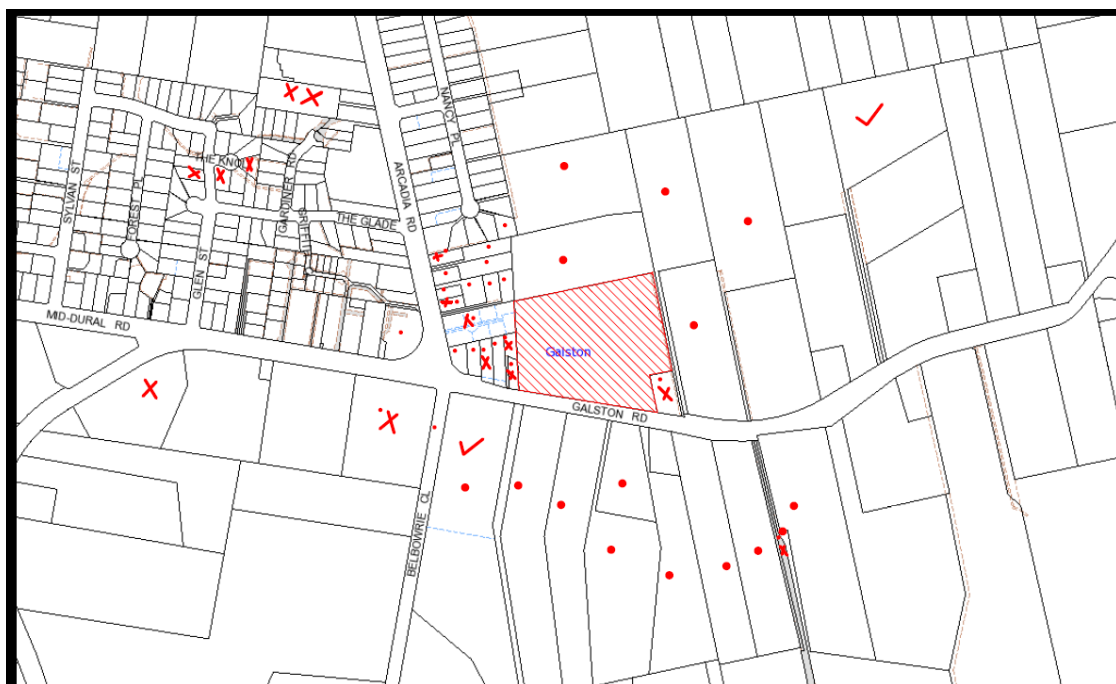
Given the above, the site is considered to be suitable for the development.

5. PUBLIC PARTICIPATION


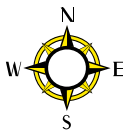
Section 79C(1)(d) of the Act requires Council to consider “*any submissions made in accordance with this Act*”.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 30 August 2011 and 20 September 2011 in accordance with Council’s *Notification and Exhibition Development Control Plan*. During this period, Council received forty-three submissions including twenty-nine supporters and fourteen objectors. The map below illustrates the location of those landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

• PROPERTIES NOTIFIED	X OBJECTIONS RECEIVED ✓ SUPPORTERS	 PROPERTY SUBJECT OF DEVELOPMENT	
27 SUBMISSIONS RECEIVED OUT OF MAP RANGE			

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

- The pump out system would have adverse impact on the locality due to odour;
- The costs of pump-out services are very high and not suitable for a seniors living development;
- The pump-out truck location is inappropriate, being situated close to the round-about prior to accessing Galston gorge;
- The SOJI agreement between the Hawkesbury Nepean Catchment Management Authority, Hornsby Shire Council and Sydney Water states that there would be no further subdivision of rural land. This development is inconsistent with that agreement.
- The stormwater runoff from this site would have adverse impacts on the downstream properties and would cause flooding.
- The development would have adverse impact on the creek at the rear.
- The development would have adverse impact on the public transport system.

- h. The development would detract from the rural character of the area and is a prohibited use in the zone under the provisions of the *HSLEP*.
- i. The site is not located close to a hospital and therefore, the occupants would not receive emergency care on time, when needed.
- j. There are no pedestrian crossings on the street to allow the pedestrians to cross.
- k. The proposal would result in the expansion of Galston village by 25%.
- l. Water and electricity services to Galston are currently at capacity.
- m. The proposal is inconsistent with Hornsby Council's Housing Strategy which seeks to limit urban expansion to transport corridors.
- n. The development would destroy agricultural land.
- o. The proposal would intensify traffic in the local area.
- p. The proposal would result in removal of native trees.
- q. The development does not incorporate sustainable water principles.
- r. The local population would be demographically unbalanced as there is already an existing retirement village in this area.
- s. The proposal would set an undesirable precedent for the area.
- t. Galston already has an oversupply of residences and does not need more.
- u. The development would result in loss of privacy for the residents of No. 328A Galston Road (adjoining eastern property).
- v. Entry and exit to No. 328A Galston Road would be more difficult due to increased traffic flow.
- w. The garbage collection would add noise to the area.
- x. The proposal would devalue the surrounding properties.

Additionally, some residents have also made the following observations:

- a. Not all residents in the locality have been notified of the development via letters.
- b. The submitted plans do not include a detention system for stormwater.
- c. The plan of the development shows possible access to properties at the rear which would facilitate expansion in the future.

- d. The site adjoins the Galston Village which has an equivalent zone of RU 5 and is therefore a rural zone. Given this, the development is not permissible on the site.

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

Permissibility in RU5 zone

The residential allotments located in Arcadia, Galston and Glenorie with a Residential AR zoning have an equivalent zone of R2 (Low Density – Residential). As such, the application has been lodged relying upon the current zoning of the adjoining land to the west, which is urban.

Electricity Services

The application includes a letter from Energy Australia providing consent to supply electricity to the development upon completion.

Distance from hospital

The proposed development would involve medical care facilities within the centre for emergency attendance, if required. The details of the in-house medical care facilities are to be provided to the satisfaction of the Principal Certifying Authority prior to release of the Occupation Certificate.

Legality of the application and the SOJI agreement

SEPP (Housing for Seniors or People with a Disability) 2004 overrides any other Planning Instrument with regard to permissibility of the use. Therefore, any agreement between the Council, the residents and other public authorities would be outweighed by the *SEPP*.

Cost of Pump-out services

The proposed waste water management system area is for on-site storage and off-site removal by tanker truck from a collection point at the Galston Road frontage of the site by pump-out.

The proposed development would generate approximately 25,000 litres of waste water per day. The maximum size tanker vehicle is 30,000 litres. The proposed 60,000 litre storage tanks would require pump-out collection more than 4 times a week. The pump-out takes 1 hour 10 minutes for a 30,000 litre pump-out. The cost is approximately \$2.40 per 100 litres amounting to a minimum of \$720 per pump-out.

In a recent LEC appeal for “*Treysten Pty Ltd vs Hornsby Shire Council*”, this has not been considered to be unreasonable. Therefore, no objections are raised in this regard.

5.2 Public Agencies

The development application was referred to the following Agencies for comment:

5.2.1 Roads and Maritime Services

The application was required to be referred to the RMS for concurrence pursuant to Section 138 of the *Roads Act 1993*.

The RMS raised no objection to the application and provided recommended consent conditions requiring no works to be undertaken within the road widening reserve at the Galston Road frontage and a channelised right turn treatment to be provided on Galston Road at its intersection with the proposed access for road safety. Provision of the right turning facility would require widening of Galston Road in this section of the site.

This is recommended as a condition of development consent.

5.2.2 NSW Office of Water

The application was referred to the Office of Water as Integrated Development, requiring approval for works in proximity to a watercourse under the *Water Management Act 2000*.

The Office of Water has advised that the presence of any 'river' within the meaning of the *Water Management Act 2000*, is unlikely to be present on the site. Given this a controlled activity approval would not be required.

5.2.3 Department of Planning and Infrastructure

The Director-General of the Department of Planning and Infrastructure 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 14 February 2011 advises that the development of ninety six serviced self care dwellings is compatible with the surrounding environment.

6. THE PUBLIC INTEREST

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

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

The proposed development is inconsistent with the objectives of the Rural BA (Small Holdings – Agricultural Landscapes) Zone. Notwithstanding this, the application is considered to have satisfactorily addressed the provisions of the *SEPP (Housing for Seniors and People with a Disability) 2004* and would provide a development outcome that, on balance, would result in the provision of housing choice for seniors in the locality. Previous development applications approved the LEC in the rural areas and the recent decision for DA/484/2011 have a precedent for seniors living development on rural lands adjoining land zoned for urban purposes. Accordingly, it is considered that the approval of the proposed development would be consistent with

the State Government's direction that the provision of seniors' housing in this location is in the public interest.

CONCLUSION

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

The application has been assessed having regard to 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 previous development consents approved in the rural areas of the Shire.

Approval of the application is recommended as a deferred commencement.

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

Attachments:

1. Locality Plan; 1 page
2. Survey Plan; 1 page
3. Context and Local facilities Plan; 2 pages
4. Site Plan and Staging Plan; 2 pages
5. Landscape Plan and Tree Plan; 2 pages
6. Apartment Block Floor Plans; 2 pages
7. Plans of individual units; 1 page
8. Apartment Block Elevations and Site elevations; 4 pages
9. Basement Plans; 3 pages
10. House Floor Plans and Elevations – Types 1, 2 and 4; 3 pages
11. House Plan and Floor elevations for Type 3 and Temporary community centre details; 1 page
12. Community centre Floor Plan and elevations; 1 page
13. Shadow Plans; 3 pages
14. Solar Access Charts
15. Waste management Plan and bin locations; 1 page

SCHEDULE 1

1. Deferred Commencement

Pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, this consent does not operate until the following information is submitted to Council:

- a. Documentary evidence must be provided that a licence has been granted under the *Water Industry Competition Act 2006 (WICA)* for the design, installation and operation of the proposed on-site sewage management system or, alternatively, evidence that a licence is not required by the NSW Independent Pricing and Regulatory Tribunal.
- b. Details of the on-site sewage management system (WICA approved, if applicable), including but not limited to:
 - i. Scaled site plan of the proposed system including all sewerage infrastructure.
 - ii. Capacity and design specifications of proposed septic and holding tanks.
 - iii. Details and specifications for pump out systems of lift pumps, pump-out lines and the pipe to be used to deliver 364 L/min of sullage at the outlets.
 - iv. Details of proposed locations of pump-out point/s and tanker standing location/s a minimum of 3 metres from the centre line of the road.
 - v. Details of proposed tanker pump out frequency and procedures for emergency pump out.
- c. Documentary evidence must be provided to the effect that licence has been granted under the *Water Industry Competition Act 2006 (WICA)* for the design, installation and operation of the proposed water supply system, or alternatively, evidence that a licence is not required by the NSW Independent Pricing and Regulatory Tribunal.
- d. Details and specifications of the water supply system.

Note: The period within which the applicant must produce evidence to the Council sufficient enough to enable it to be satisfied as to the above matters is 12 months.

Upon Council's written satisfaction of the above information, the following conditions of development consent will apply:

GENERAL CONDITIONS - APPLICABLE TO ALL STAGES OF THE DEVELOPMENT

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 relevant legislation, planning instruments and Council policies affecting the land and does not disrupt the amenity of the neighbourhood or impact upon the environment.

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 shall 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.

2. Approved Plans and Supporting Documentation

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.</i>	<i>Revision</i>	<i>Drawn by</i>	<i>Dated</i>
Survey Plan	A	Hill and Burne Consulting Services	30.09.2009
Site Plan-DA01	B	Campbell Luscombe Architects	October 2011
Context Plan DA02	-	Campbell Luscombe Architects	August 2011
Arboricultural Plan-DA06	-	Campbell Luscombe Architects	August 2011
Site Elevations-DA07	-	Campbell Luscombe Architects	August 2011
Site Sections – DA08	B	Campbell Luscombe Architects	October 2011
Staging Plan-DA09	B	Campbell Luscombe Architects	October 2011
Apartment Plans 1 –DA10	B	Campbell Luscombe Architects	October 2011
Apartment Plans 2 –DA11	B	Campbell Luscombe Architects	October 2011
Apartment Plans –DA12	-	Campbell Luscombe Architects	August 2011
Basement Parking 1-DA13	-	Campbell Luscombe Architects	August 2011
Basement Parking 2-DA14	-	Campbell Luscombe Architects	August 2011
Apartment Elevations 1 – DA15	B	Campbell Luscombe Architects	October 2011

Apartment Elevations 2 – DA16	B	Campbell Luscombe Architects	October 2011
House Type 1 – DA17	-	Campbell Luscombe Architects	August 2011
House Type 2 – DA18	-	Campbell Luscombe Architects	August 2011
House Type 3 – DA19	B	Campbell Luscombe Architects	October 2011
House Type 4 – DA20	-	Campbell Luscombe Architects	August 2011
Community Centre-DA21	-	Campbell Luscombe Architects	August 2011
Landscape Plan-1	B	Michael Zinn	July 2011
Landscape Plan-2	B	Michael Zinn	December 2010
Landscape Plan 3	B	Michael Zinn	December 2010
Cover Sheet, Notes and Legend – C100	C	Acor Consultants	19.09.2011
Pavement Plan-C201	E	Acor Consultants	25.10.2011
Sheet Layout and Site plan-C201	E	Acor Consultants	25.10.2011
Grading and Drainage Plan Sheet 1-C202	E	Acor Consultants	25.10.2011
Grading and Drainage Plan Sheet 2-C203	E	Acor Consultants	25.10.2011
Grading and Drainage Plan Sheet 3-C204	C	Acor Consultants	14.09.2011
Grading and Drainage Plan Sheet 4-C205	B	Acor Consultants	15.07.2011
Road Long Sections – Sheet 1 – C301	B	Acor Consultants	15.07.2011
Road Long Sections – Sheet 2 – C302	B	Acor Consultants	15.07.2011
Road Cross Sections – Sheet 1 – C401	B	Acor Consultants	15.07.2011
Road Cross Sections – Sheet 2 – C402	B	Acor Consultants	15.07.2011
Intersection Plan and Details Sheet 1-C501	B	Acor Consultants	15.07.2011
Intersection Plan	B	Acor Consultants	15.07.2011

and Details Sheet 2-C502			
Onsite Detention Plan and details-C601	C	Acor Consultants	14.09.2011
Details Sheet 1-C801	B	Acor Consultants	15.07.2011
Details Sheet 2-C802	B	Acor Consultants	15.07.2011
Soil Erosion and Sediment Control Plan-C901	E	Acor Consultants	25.10.2011
Soil Erosion and Sediment Control Notes and Details-C902	B	Acor Consultants	15.07.2011
Catchment Plan – C1001	E	Acor Consultants	25.10.2011

<i>Document No.</i>	<i>Prepared by</i>	<i>Dated</i>
Location Facilities Plan – DA03	Campbell Luscombe Architects	August 2011
Site Analysis Plan-DA05	Campbell Luscombe Architects	August 2011
Indicative External Colours – Da22	Campbell Luscombe Architects	August 2011
Shadow Diagram 1 – DA23	Campbell Luscombe Architects	August 2011
Shadow Diagram 2 – DA24	Campbell Luscombe Architects	August 2011
Shadow Diagram 3 – DA25	Campbell Luscombe Architects	August 2011
Solar Access Chart	Campbell Luscombe Architects	November 2011
Waste Management Plan-DA26	Campbell Luscombe Architects	October 2011
Waste Management Plan Document	Acor Consultants	25.10.2011
Hydraulic Services Site Plan Sanitary Drainage Layout – H101 Issue E	Campbell Luscombe Architects	15.07.2011
Draft Services Agreement	-	Received by Council on 23.01.2011
Draft Letter from Catholic Healthcare	Catholic Healthcare	26.10.2011
Bus Routes and Details	Campbell Luscombe Architects	Received by Council on 4.11.2011
Statement of Environmental Effects	Innovation Planning	August 2011
Addendum to Statement of Environmental Effects	Innovation Planning	Received by Council on 4.11.2011
Sydney Water Feasibility Letter	Sydney Water	9.10.2010

Contamination Assessment - 71406.01	Douglas Partners Pty Ltd	March 2010
Acoustic Report Version A - 11084	Wilkinson Murray Pty Ltd	May 2011
Sustainable Design Report	Acor Consultants	20.07.2011
Preliminary Arboricultural Audit	Tree Wise Men	June 2010
Flood Study	Acor Consultants	22.07.2011
Assessment of Traffic and Parking Implications	Transport and Traffic Planning Associates	November 2010
Draft Support Services Statement	Innovation Planning	August 2011
Energy Australia Advice	Energy Australia	18.01.2008
Basix Certificate	Department of Planning	August 2011
Access Report	Campbell Luscombe Architects	Received by Council on 15.08.2011

3. Removal of Existing Trees

This development consent only permits the removal of trees plotted, numbered and identified for removal on Landscape Plan No.3B prepared by Michael Zinn dated December 2010. The removal of any other trees requires separate approval under Council's Tree Preservation Order.

4. Project Arborist

A Project Arborist is to be appointed prior to the commencement of Stage 1 of the development in accordance with AS 4970-2009 (1.4.4) to provide monitoring and certification throughout the development process for all stages.

REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE – APPLICABLE FOR ALL STAGES

5. Building Code of Australia

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

6. Contract of Insurance (Residential Building Work)

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.

7. Notification of Home Building Act 1989 Requirements

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.
 - 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.
 - ii. If the owner-builder is required to hold an owner-builder's permit under that Act, the number of the owner-builder's 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.

8. Water/Electricity Utility Services

The applicant must submit written evidence of the following service provider requirements:

- a. *Energy Australia* – a letter of consent demonstrating that satisfactory arrangements have been made to service the proposed development.
- b. *Sydney Water* – the submission of a 'Notice of Requirements' under s73 of the *Sydney Water Act 1994*.

Note: Sydney Water requires that s73 applications are to be made through an authorised Sydney Water Servicing Coordinator. Refer to www.sydneywater.com.au or telephone 13 20 92 for assistance.

9. Acoustic Details

The Construction Certificate plans for each stage of the development must demonstrate compliance with the recommendations in the Noise Assessment Report prepared by Wilkinson Murray dated May 2011.

Note: The habitable rooms should satisfy the requirements of Clause 102(3) of the State Environmental Planning Policy (Infrastructure) 2007. The road traffic noise from Galston Road should be suitably mitigated by the use of durable materials.

10. Access and Mobility

The Construction Certificate drawings for each stage of the development must demonstrate compliance 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 and the Access report prepared by Campbell Luscombe Architects received by Council on 15 August 2011.

11. Retaining walls

A plan of all retaining walls and earthworks must be prepared by a chartered geotechnical and structural Engineer for each stage of the development.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS – APPLICABLE TO ALL STAGES

12. Erection of Construction Sign

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 demolition or 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.

13. Protection of Adjoining Areas

A temporary hoarding, fence or awning must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

- a. Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic.
- b. Could cause damage to adjoining lands by falling objects.

- c. Involve the enclosure of a public place or part of a public place.

Note: Notwithstanding the above, Council's separate written approval is required prior to the erection of any structure or other obstruction on public land.

14. Toilet Facilities

Toilet facilities must be available or provided at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet for every 20 persons employed at the site. Each toilet must:

- a. be a temporary chemical closet approved under the *Local Government Act, 1993*; or
- b. have an on-site effluent disposal system approved under the *Local Government Act, 1993*

15. Erosion and Sediment Control

Erosion and sediment control measures must be provided and maintained throughout the construction period in accordance with the manual '*Soils and Construction 2004 (Bluebook)*', the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sediment control devices must remain in place until the site has been stabilised and revegetated.

Note: On the spot penalties up to \$1,500 may be issued for any non-compliance with this requirement without any further notification or warning.

16. Tree Protection Barriers

Site perimeter fencing must be erected prior to the placement of Tree protection fencing.

Tree Protection Zones (TPZ) are to be fenced in accordance with AS 4970-2009 (Section 4) at the distances as listed in the table below and the fencing must be constructed of 1.8 metre 'cyclone chainmesh fence'

TREES	TPZ
T3	6m
T49	8.4m
T51, T52	10.8m
T53	9.6m
Tree Group B as identified in Landscape Plan No.1 prepared by Michael Zinn dated December 2010.	7.2m

A certificate from the project Arborist (AQF 5) is to be submitted to the Principal Certifying Authority stating that all tree protection measures are in

accordance with the above table and AS 4970-2009 (Section 4) prior to commencement of works for any stage of the development.

REQUIREMENTS DURING CONSTRUCTION – APPLICABLE FOR ALL STAGES

17. Construction Work Hours

All work on site (including demolition and earth works) must only occur between 7am and 5pm Monday to Saturday.

No work is to be undertaken on Sundays or public holidays.

18. Right-of-access

Right-of-access to DP 601822 at the rear must be maintained at all times.

19. Presence of asbestos

Should the presence of asbestos or soil contamination, not recognised during the application process be identified during works, the applicant must immediately notify the principal certifying authority and Council.

20. Construction Noise Management

The construction works must be undertaken in accordance with the “Interim Construction Noise Guidelines – 2009” published by DECCW.

21. Council Property

During construction works, no building materials, waste, machinery or related matter is to be stored on the road or footpath. The public reserve is to be kept in a clean, tidy and safe condition at all times.

22. Environmental Management

The site must be managed in accordance with the publication *Managing Urban Stormwater – Landcom (March 2004)* and the *Protection of the Environment Operations Act 1997* by way of implementing appropriate measures to prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction of the development.

23. Street Sweeping

Street sweeping must be undertaken following sediment tracking from the site along Galston Road during works for all stages of the development and until the site is established for that stage.

24. Works near Trees

All required tree protection measures are to be maintained in accordance with AS 4373-2009 (Section.4) for the duration of the construction period for all stages of the development.

All construction works within the Tree Protection Zones (TPZ) of trees T51, T52, T53 & Tree Group B must be conducted under the supervision of the Project Arborist.

The construction work area within a TPZ must not exceed 20% of the TPZ, and an area equivalent to the encroachment area must be compensated for elsewhere and be contiguous with the TPZ for the duration of the construction period.

25. Disturbance of Existing Site

During construction works, the existing ground levels of open space areas and natural landscape features, (including natural rock-outcrops, vegetation, soil and watercourses) must not be altered unless otherwise nominated on the approved plans.

26. Landfill

Landfill must be constructed in accordance with Council's '*Construction Specification, 2005*' and the following requirements:

- a. All fill material imported to the site is to wholly consist of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material approved under the *Department of Environment and Climate Change's* general resource recovery exemption.
- b. A certificate must be submitted by a suitably qualified chartered geotechnical engineer certifying all fill has been compacted in accordance with Council's Design and Construction Specification 2005

27. Excavated Material

All excavated material removed from the site must be classified in accordance with the *NSW Environment Protection Authority's Environmental Guidelines – Assessment, Classification and Management of Liquid and Non-Liquid Wastes* prior to disposal to an approved waste management facility and reported to the principal certifying authority.

28. Waste Management Plan

- a. Demolition work and construction of the development must be carried out in accordance with the Waste Management Plan, dated 15 July 11 (unless amended by other conditions of this development consent) and in

accordance with Council's Waste Minimisation & Management Development Control Plan and Guide for the Demolition Stage (Section One) and the Construction Stage (Section Three) of the development.

- b. Written records of the following items must be maintained during the removal of any waste from the site and such information submitted to the Principal Certifying Authority within fourteen days of the date of completion of the works for each stage:

- The identity of the person removing the waste;
- The waste carrier vehicle registration;
- A description of the waste (type of waste and estimated quantity);
- The site to which the waste is to be taken;
- The corresponding tip docket/receipt from the site to which the waste was transferred (noting date and time of delivery, description (type and quantity) of waste);
- Whether the waste is expected to be reused, recycled or go to landfill.

Note: In accordance with the Protection of the Environment Operations Act 1997, the definition of waste includes any unwanted substance/material, regardless of whether it is reused, recycled or disposed to landfill.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE –APPLICABLE TO ALL STAGES

Note: For the purpose of this consent, a reference to 'occupation certificate' shall not be taken to mean an 'interim occupation certificate' unless otherwise stated.

29. Fulfilment of BASIX Commitments

The applicant must demonstrate the fulfilment of BASIX commitments pertaining to the development works in each stage of the development.

30. Sydney Water – s73 Certificate

A s73 Certificate must be obtained from *Sydney Water*.

31. Damage to Council Assets

Any damage caused to Council's assets as a result of the construction of the development must be rectified in accordance with Council's written requirements and at the sole cost of the applicant.

32. Access and mobility compliance

A suitably qualified access consultant must certify compliance with the Access and Mobility requirements as required in Condition 10 for each Stage.

33. Internal Driveway/Vehicular Areas

The driveways and parking areas on site relevant to each stage of the development must be designed in accordance with *Australian Standards 2890.1, 2890.2, 3727* and the following requirements:

- a. Design levels at the front boundary be obtained from Council.
- b. The driveways be rigid pavements.
- c. The driveway grades must not exceed 15 percent and changes in grade, as well as provision for three-point turn truck turning areas must be capable of accommodating Council's standard garbage vehicle.
- d. The pavement have a kerb to one side and a one-way cross fall with a minimum gradient of 2 percent and a kerb inlet pits provided on grade and in low points.
- e. Retaining walls required supporting the carriageway and the compaction of all fill batters to be in accordance with the requirements of a chartered structural engineer.
- f. The provision of safety rails where there is a level difference more than 0.3 metres and a 1:4 batter can not be achieved.
- g. To permit adequate manoeuvring for vehicles, non-through road driveways may incorporate roll top kerbs and kerb inlet drainage control.
- h. Conduit for utility services including electricity, water, gas and telephone be provided.

Note: A construction certificate is required to be obtained prior to commencement of works.

34. Compliance with the Waste Management Plan

A report(s) must be prepared by the principal contractor and submitted to the principal certifying authority after the completion of each stage, including the following:

- a. A comparison of the estimated quantities of each waste type against the actual quantities of each waste type has been made;
- b. Any deviations from the Waste Management Plan (including, but not limited to, types of waste, quantities of waste, destinations of waste, reuse and recycling achieved) have been explained;

- c. Certifying that all waste was taken to site(s) that were lawfully permitted to accept that waste;
- d. Certifying that at least 60 % waste generated was reused or recycled;

Note: If the 60% diversion from landfill was not achieved in the Demolition Stage and/or Construction Stage, the Report is to include the reasons why this occurred and certify that appropriate work practices were employed in the demolition and construction stages to implement the Waste Management Plan.

The Report(s) is to be prepared on the basis of documentary evidence (i.e. tipping dockets/receipts from recycling depots, transfer stations and landfills, audits of procedures, Licence and/or development consent of site(s) receiving waste, etc) which should be attached to the Report.

35. Waste Management Details

The following waste management requirements must be complied with for each stage of the development:

- a. The bins for the individual dwellings and the Community centre must be screened from public view.
- b. Each dwelling/kitchen must be provided with an indoor waste/recycling cupboard for the interim storage of a minimum one day's waste generation with separate containers for general waste and recyclable materials.
- c. Space must be provided for either individual compost containers for each unit or a communal compost container;

Note: The location of the compost containers should have regard for potential amenity impacts.

- d. The bin carting route must be devoid of any steps.
- e. No parking signs must be erected to prohibit parking in the waste collection vehicle turning areas.
- f. The communal bin storage rooms must include water/hose for cleansing, graded floors with drainage to sewer, robust door(s), sealed/impervious surfaces, adequate lighting and ventilation.
- g. A site caretaker must be employed and be responsible for moving bins to and from the bin storage area(s) and the waste collection point, washing bins and maintaining storage areas, managing the communal composting area, arranging the prompt removal of dumped rubbish,

and ensuring all residents are informed of the waste management system.

36. Garbage Collection Easement

For the purpose of waste collection, an easement entitling Council, its servants and agents and persons authorised by it to enter upon the subject land and to operate thereon, vehicles and other equipment for the purposes of waste collection must be granted to Council by the owner of the land after the completion of each stage of the development.

Note: The easement must be in a form prescribed by Council and must include covenants to the effect that parties will not be liable for any damage caused to the subject land or any part thereof or to any property located therein or thereon by reason of the operation thereon of any vehicle or other equipment used in connection with the collection of waste and to the effect that the owner for the time being of the subject land shall indemnify the Council, its servants, agents and persons authorised by it to collect waste against liability in respect of any such claims made by any person whomsoever.

37. Completion of Landscaping

A certificate must be provided by a practicing landscape architect, horticulturalist or person with similar qualifications and experience after each stage of the development certifying that all required landscaping works have been satisfactorily completed in accordance with the approved landscape plans.

38. Maintain Canopy Cover

To maintain canopy cover, trees are to be planted in accordance with the Landscape Plans No.1 and 2 prepared by Michael Zinn dated December 2010 in the relevant stages of the development.

The planting locations must not be within 4 metres of the foundation walls of a dwelling or in-ground pool. The trees must be maintained until they reach the height of 3 metres.

39. Final Certification

The project arborist must assess the condition of the retained trees and their growing environment and make recommendations for, and if necessary carry out remedial actions after the completion of each stage of the development and prior to the issue of the occupation certificate,

Following the final inspection and the completion of all remedial works, the Project Arborist must certify completed works have been carried out in compliance with the approved plans, conditions of consent and AS 4970-2009.

40. Installation of Air Conditioner

To protect the amenity of adjacent properties, the condenser unit for the air conditioner must be sited a minimum of 3 metres from the property boundary of any adjoining residential premises unless a certificate has been prepared by a suitably qualified person confirming that the unit has been tested for heating and cooling on the highest settings and that the noise levels generated do not exceed 5 dB(A) above background noise levels when tested at the property boundary between 8 pm and 10 pm.

41. s94 Infrastructure Contributions

The payment to Council of a contribution of the following amounts for ninety five additional dwellings towards the cost of infrastructure identified in Council's *Development Contributions Plan 2007-2011*:

Stage 1 – \$ 109,586.95 for thirteen self contained dwellings

Stage 2 – \$ 140,324.65 for fourteen self contained dwellings

Stage 3 – None

Stage 4 – \$ 110,255.25 for eleven self contained dwellings

Stage 5 - \$ 300,695.35 for thirty units

Stage 6 - \$ 280, 649.35 for twenty-eight units

The above payments must be made prior to the issue of the Occupation Certificate for that stage of the development.

Note: The contribution is calculated at the rate of \$10,023.30 x 76 Seniors Housing dwellings and includes a credit of \$20,000 for the existing dwelling-house as calculated at the 24 January 2012. The contribution will be adjusted from this date in accordance with the underlying consumer price index for subsequent financial quarters.

**It is recommended that you contact Council to confirm the value of the contribution prior to payment*

OPERATIONAL CONDITIONS –APPLICABLE TO ALL STAGES OF THE DEVELOPMENT
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42. Site Security

Site security measures implemented on the property, including electronic gates, must not prevent access to the bin collection points by waste removal services.

43. Car Parking and Deliveries

All car parking must be constructed and operated in accordance with *Australian Standard AS 2890.1 – 2004 – Off Street Car Parking* and *Australian Standard 2890.2 - 2002 – Off Street Commercial* and the following requirement:

- a. All parking areas and driveways are to be sealed to an all weather standard, line marked and signposted.
- b. Car parking, loading and manoeuvring areas to be used solely for nominated purposes.
- c. All vehicular entry on to the site and egress from the site shall be made in a forward direction.

44. Commercial Waste

The Community Centre tenants must keep written evidence on site of a valid contract with a licensed waste contractors for the regular collection and disposal of the waste and recyclables that are generated at the Community Centre.

45. Landscape Establishment and Maintenance - ongoing

The landscape works must be maintained into the future to ensure the establishment and successful growth of plant material to meet the intent of the landscape design. This shall include but not be limited to watering, weeding, replacement of failed plant material and promoting the growth of plants through standard industry practices.

46. Fire Safety Statement - Annual

On at least one occasion in every 12 month period following the date of the first 'Fire Safety Certificate' issued for the property, the owner must provide Council with an annual 'Fire Safety Certificate' to each essential service installed in the building.

ADDITIONAL CONDITIONS TO BE FULFILLED IN STAGE 1 OF THE DEVELOPMENT

REQUIREMENTS DURING CONSTRUCTION

47. Dam water

Discharge of water from the dam is to be undertaken in accordance with the publication *'Soils and Construction 2004 (Bluebook)'* and the *Protection of the Environment Operations Act 1997* by way of implementing appropriate measures to prevent sediment run-off and/or turbid water entering the creek.

Flow rates are to be restricted so that no bank scouring or erosion occurs due to the discharge.

48. Demolition

All demolition work must be carried out in accordance with *Australian Standard 2601-2001 – The Demolition of Structures* and the following requirements:

- a. Demolition material is to be disposed of to an authorised recycling and/or waste disposal site and/or in accordance with an approved waste management plan.
- b. Demolition works, where asbestos material is being removed, must be undertaken by a contractor that holds an appropriate licence issued by *WorkCover NSW* in accordance with Chapter 10 of the *Occupational Health and Safety Regulation 2001* and Clause 29 of the *Protection of the Environment Operations (Waste) Regulation 2005*.
- c. 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 must be erected in a prominent position visible from the street.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

Note: For the purpose of this consent, a reference to ‘occupation certificate’ shall not be taken to mean an ‘interim occupation certificate’ unless otherwise stated.

49. Services to be provided by retirement village operator

The applicant must demonstrate that there are contracts in place which require the retirement village operator to provide on-site services to all stages of the development as follows:

- (a) The operator of the retirement village must provide on-site meals, cleaning services, personal care and nursing care to residents of the development.
- (b) The operator of the retirement village must implement a Management Plan for the provision of on-site services that details the following:
 - (i) The name and contact details of the service provider and the person to be contacted concerning the provision of the service.
 - (ii) The extent and range of the services to be provided and the cost for the provision of those services.

- (iii) The details of accreditation for the service providers and the contract period for the service delivery.
- (iv) The method of delivery, hours for the provision of the service and the expected timeframes for service provision.
- (v) The details of service provision for 24 hour emergency contact.
- (c) A copy of the Management Plan is to be made available to all residents of the development and is to be kept updated by the operator of the retirement village for any change to the Plan.
- (d) A caretaker is to be contracted for the ongoing maintenance and operation of the development including the waste water management system and the water supply system, as part of the Management Plan.

50. Community Centre

The temporary community centre to be used for Stages 1 and 2 as approved under this development consent must be completed and be operational.

51. Site Contamination

The applicant must provide documentation from a suitably qualified environmental consultant verifying that the site has been remediated in accordance with the NSW Environment Protection Authority's Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites, the Contaminated Sites- Sampling Design Guidelines Contaminated Sites – Guidelines for the NSW Site Auditor Scheme and the recommendations of the “Contamination Assessment” prepared by Douglas Partners Pty Ltd document number 71406.01 dated March 2010.

52. On-site sewerage disposal facility

An on-site sewage management system, separately approved under the *Local Government Act 1993*, must be installed, commissioned and certified by a licensed plumber in accordance with *Australian Standard 1547 – Onsite Domestic Wastewater Management (2000)* and *Environment & Health Protection Guidelines – Onsite Sewage Management for Single Households (1998)* - *On-site domestic wastewater management and Management of Private Recycled Water Schemes*.

All construction works including the road works relating to the approved on-site sewerage management facility must be completed and be operational.

53. Bus service

A dedicated shuttle bus service for the use of the residents of the development must be provided in accordance with the Statement of Environmental Effects. This bus is to be capable of carrying at least 10 passengers.

54. Stormwater Drainage

The stormwater drainage system for impervious areas within the site must be designed and constructed for an average recurrence interval of at least 20 years and be gravity drained in accordance with the following requirements:

- a. Impervious areas to be connected to the existing internal drainage system and the proposed on-site detention system, draining to the natural watercourse drainage system.
- b. In order to avoid nuisance flooding, upstream flows are to be captured by a swale drainage system capable of draining the 100 year average recurrence interval (ARI) upstream storm flow and conveyed overland to a Council-controlled drainage system.
- c. All pits are to be benched off to their outlet inverts. Sumps are not required anywhere in the drainage system.
- d. All pits are to be cast in-situ, with integral extended kerb inlets designed and constructed on grade and at sag points.
- e. A pit and pipe drainage system is to be constructed within the widened Galston Road road reserve. Council's standard extended kerb inlet pits and pipes are to be designed for an alignment determined by edge of seal or kerb and guttering resulting from design of right turn treatments, medians and access road works.

Note 1: A construction certificate is required to be obtained for the above works

Note 2: The design of the relevant road works and all other related works are to be endorsed by Roads and Traffic Authority of NSW prior to the issue of the Construction Certificate.

55. On Site Stormwater Detention

Provision must be made for design and construction of on-site stormwater detention system by a chartered civil engineer and constructed in accordance with the following requirements:

- a. Have a capacity of not less than 750 cubic metres, and a maximum discharge (when full) of 700 litres per second.
- b. High Early Discharge pits are not used.
- c. Have a surcharge/inspection grate located directly above the outlet. Emergency overflow weir systems shall be designed and constructed for excesses of the 100 year ARI and disposed of to the downstream drainage system.
- d. Discharge from the detention system to be controlled via 1 metre length of pipe, not less than 50 millimetres diameter or via a stainless

plate with sharply drilled orifice bolted over the face of the outlet discharging into a larger diameter pipe capable of carrying the design flow to an approved drainage system.

Note: A construction certificate is to be obtained prior to commencement of such works.

56. Road Works

All road works approved under this consent must be constructed in accordance with Council's *Civil Works Design and Construction Specification, 2005* and the following requirements:

- a. All centre medians, pedestrian refuges, bus stops and shelters with accessible pavements, deceleration/merge lane, channelised right turn treatment, road pavement and resealing work, and associated shoulder pavement and sealing works as applicable to be constructed generally in accordance with conditions of this development consent and RMS-endorsed construction certificate plans.
- b. To provide adequate pedestrian access, Council's standard 80mm thick concrete footpaths is to be reconstructed within the road reserve across the frontage of the site, to connect the site's internal pathway system with Council's paved footpath network.
- c. For safety, the Galston Road frontage of the site must be adequately illuminated with Council's standard luminaries in accordance with AS1158 lighting Category V3.
- d. The submission of a compaction certificate from a geotechnical engineer for any fill within road reserves, and all road sub-grade and road pavement materials.

Note 1: A construction certificate is to be obtained for the above works

Note 2: Pursuant to the Roads Act 1993, the roads works plans must be submitted to NSW RMS's Traffic Project Section, Parramatta Branch, for consideration and approval prior to release of any Construction Certificate. Lodgement of construction plans with RMS may incur additional fees for inspections, processing costs and performance bonds.

Note 3: Signage, linemarking and services relocation must be shown on the construction plans.

57. Road Widening

All structures and truck standing areas are to be located clear of the lot area required to widen Galston Road.

58. Vehicular Crossings

A separate application under the *Local Government Act, 1993* and the *Roads Act, 1993* must be submitted to Council for the installation of the new concrete vehicular access crossings and gutter laybacks and the removal of any redundant crossing. The vehicular crossing must be constructed in accordance with Council's *Civil Works Design, 2005* and the following requirements:

- a. Any redundant crossings to be removed and matched to finished ground levels.
- b. Crossings shall be designed and constructed as standard concrete crossing slabs and laybacks to ensure continuity of footpath grade without use of pram ramps.
- c. The footway area to be restored by turfing.
- d. Council's standard road shoulder to be constructed adjacent to the crossings to match the channelised carriageway.

Note: An application for a vehicular crossing can only be made to one of Council's Authorised Vehicular Crossing Contractors (or be the subject of a Construction Certificate application to Council as Roads Authority). You are advised to contact Council on 02 9847 6940 to obtain a list of contractors.

Note 2: A construction certificate is to be obtained for such works.

59. Creation of Easements

The following matters must be nominated on the title of the subject property under s88B of the *Conveyancing Act 1919*:

- a. The creation of an appropriate "*Positive Covenant*" and "*Restriction as to User*" over the constructed on-site detention/retention systems and outlet works, within the lots in favour of Council in accordance with Council's prescribed wording. The position of the on-site detention system is to be clearly indicated on the title.
- b. To register the OSD easement, the restriction on the use of land "*works-as-executed*" details of the on-site-detention system must be submitted verifying that the required storage and discharge rates have been constructed in accordance with the design requirements. The details must show the invert levels of the on site system together with pipe sizes and grades. Any variations to the approved plans must be shown in red on the "*works-as-executed*" plan and supported by calculations.

Note: Council must be nominated as the authority to release, vary or modify any easement, restriction or covenant.

- c. The creation of a positive covenant over requiring the footings of any structures on land that has been filled more than 300mm must be designed by a chartered structural engineer.

60. Works as Executed Plan

A works-as-executed plan(s) must be prepared by a registered surveyor and submitted to Council for completed road assets, refuges, medians, pavements, kerb & gutter, public drainage systems, driveways, internal drainage works, catch drains and on-site detention systems relevant to each stage of the

61. Restriction on Occupation – Housing for Seniors or People with a Disability

A restriction as to user must be created under s88B of the *Conveyancing Act 1919* and registered, requiring the dwellings approved under this consent to be solely used for the accommodation of:

- a. Seniors (55+ age) or people with a disability.
- b. People who live within the same household as seniors or people with a disability.
- c. Staff employed to assist the administration and provision of services to housing provided under *SEPP (Housing for Seniors or People with a Disability) 2004*.

Note: The restriction must nominate Council as the authority to release, vary or modify the restriction.

OPERATIONAL CONDITIONS

62. Noise – plant and Machinery

All noise generated by the proposed development must 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).

An acoustic assessment is to be undertaken by a suitably qualified environmental consultant within 60 days of occupying the site in accordance with the *Environment NSW Industrial Noise Policy (2000)*, *Council's Policy and Guidelines for Noise and Vibration Generating Development (Acoustic Guidelines V.5, 2000)* and the *DECC's Noise Guide for Local Government (2004)*. The assessment must be submitted to Council for review. Should the assessment find that noise from the premise exceeds 5dB(A) appropriate measures must be employed to rectify excessive noise.

ADDITIONAL CONDITION FOR STAGE 3

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

Note: For the purpose of this consent, a reference to 'occupation certificate' shall not be taken to mean an 'interim occupation certificate' unless otherwise stated.

63. Food Premises

The fit out and operation of that part of the building to be used for the manufacture, preparation or storage of food for sale, must be in accordance with *Australian Standard 4674-2004 – Design and fit out of food premises*, the *Food Act 2003*, and the *Food Regulation 2004*.

Note: Reference should also be made to the Food Safety Standards and the 'Safe Food Australia - A guide to the Food Safety Standards 2nd Edition January 2001'.

64. Grease Trap Installation

A permanent grease trap must be installed for all kitchen wastewater in accordance with the requirements of *Australian Standard 3500 1998, National Plumbing Code*. A licensed plumber must submit a Certificate of Compliance to the principal certifying authority certifying that all plumbing and drainage works have been carried out in accordance with the prescribed standards.

65. Kitchen Exhaust Installation

A kitchen exhaust system must be designed and installed to effectively prevent air pollution in accordance with the *Protection of the Environment Operations Act 1997*.

66. Community Centre completion

The approved community centre for the retirement village must be completed and operational.

CONDITIONS OF CONCURRENCE – NSW ROADS & MARITIME SERVICES (RMS)

The following conditions of consent are from the nominated State Agency pursuant to Section 79b of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

67. Works within Galston Road and RMS reserve

- a. A Channelised Right Turn (CHR) must be provided on Galston Road, at its intersection with the proposed access to the subject site to maintain traffic efficiency and road safety. The CHR facility is to be constructed and be operational prior to the issue of the Occupation Certificate for Stage 1 of the proposed development.

The abovementioned works must be designed in accordance with RMS's Road Design guidelines and Australian Codes of Practice. The plans must be submitted prior to the release of the Construction Certificate for Stage 1 and be endorsed by a suitably qualified person. The certified copies of the civil works plans must be submitted to RMS for consideration and approval prior to the commencement of any road works associated with the development.

Note 1: The proposed CHR would require local widening of Galston Road.

Note 2: The RMS fees for administration, plan checking, civil works inspection and project management is to be paid by the applicant prior to the commencement of any road works.

Note 3: The applicant may be required to enter into a Work Authorisation Deed (WAD) for the abovementioned works on the classified road system. The WAD is required to be executed to RMS's satisfaction.

Note 4: The developer is responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.

- b. No works are permitted within the restricted development area along the Galston Road frontage of the site and subject to Road widening.
- c. The design and construction of a vehicular crossing fronting Galston Road Australian Standards specifications and RMS's guidelines.

Note: Please contact Project Service Manager, Traffic Projects Section, Parramatta on 88492144 for details of design requirements.

- d. The construction and demolition vehicles must be contained wholly within the site as a work zone permit is not approved on Galston Road.
- e. No “Zebra Crossings” are permitted at the entrance to the site on Galston Road or within the site.

68. Works within the site

A 2.5 metre wide median is to be provided at the entrance to the site in lieu of the Zebra Crossing, to improve the safety of pedestrians and cyclists travelling along Galston Road.

69. Excavation works

- a. Details drawings and geotechnical reports relating all excavation works in the relevant stages of the development must be submitted to RMS for assessment, prior to the release of the construction certificate for that stage. The report(s) must include the following key issues:
 - The impact of excavation/rock anchors on the stability of Galston Road and detailing how the carriageway would be monitored for settlement.
 - The impact of excavation on the structural stability of Galston Road
 - Any other relevant issue that needs to be addressed, being particular to the site.

Note1: The applicant/developer is to meet the full cost of assessment by the RMS.

Note 2: Please contact RMS's Project Engineer, External Works on 88492114 (Fax: 88492766) for information in this matter.

- b. Should it be necessary to excavate below the level of the footing of the adjoining roadway, the person acting on this development consent must provide a notice of intention to commence works below the base of the footings, to the owner of the roadway, at least seven days prior to the commencement of such works.

- END OF CONDITIONS -

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 legislation and Council's policies and specifications. 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

- The Environmental Planning and Assessment Act 1979 requires:
- The issue of 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 Services Branch on 9847 6760.
- A principal certifying authority to be nominated and Council notified of that appointment prior to the commencement of any works.
- Council to be given at least two days written notice prior to the commencement of any works.
- Mandatory inspections of nominated stages of the construction inspected.
- An occupation certificate to be issued before occupying any building or commencing the use of the land.

Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, a 'Long Service Levy' must be paid to the *Long Service Payments Corporation* or *Hornsby Council*.

Note: The rate of the Long Service Levy is 0.35% of the total cost of the work.

Note: Hornsby Council requires the payment of the Long Service Levy prior to the issue of a construction certificate.

Tree Preservation Order

To ensure the maintenance and protection of the existing natural environment, it is an offence to ringbark, cut down, top, lop, remove, wilfully injure or destroy a tree outside 3 metres of the approved building envelope without the prior written consent from Council.

Note: A tree is defined as a single or multi-trunked wood perennial plant having a height of not less than three (3) metres, and which develops many branches, usually from a distance of not less than one (1) metre from the ground, but excluding any plant which, in its particular location, is a noxious plant declared as such pursuant to the Noxious Weeds Act 1993. This definition of 'tree' includes any and all types of Palm trees.

All distances are determined under Australian Standard AS4970-2009 "Protection of Trees on Development Sites".

Fines may be imposed for non-compliance with Council's *Tree Preservation Order*.

Disability Discrimination Act

The applicant's attention is drawn to the existence of the *Disability Discrimination Act*. A construction certificate is required to be obtained for the proposed building/s, which will provide consideration under the *Building Code of Australia*, however, the development may not comply with the requirements of the *Disability Discrimination Act*. This is the sole responsibility of the applicant.

Covenants

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this consent. Applicants must rely on their own enquiries as to whether or not the building breaches any such covenant.

Dial Before You Dig

Prior to commencing any works, the applicant is encouraged to contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au for free information on potential underground pipes and cables within the vicinity of the development site.

Asbestos Notification

Should asbestos or asbestos products be encountered during demolition or construction works you are advised to seek advice and information should be prior to disturbing the material. It is recommended that a contractor holding an asbestos-handling permit (issued by *WorkCover NSW*) be engaged to manage the proper handling of the material. Further information regarding the safe handling and removal of asbestos can be found at:

www.environment.nsw.gov.au
www.nsw.gov.au/fibro
www.adfa.org.au
www.workcover.nsw.gov.au

Alternatively, telephone the *WorkCover* Asbestos and Demolition Team on 8260 5885.

House Numbering

House numbering can only be authorised by Council. Before proceeding to number each premise in the development, the allocation of numbers is required to be obtained from Council's Planning Division. The authorised numbers are required to be displayed in a clear manner at or near the main entrance to each premise.

Council Notification – Food Premises

Prior to the commencement of the business, the operator is requested to contact Council's Environmental Health Team to arrange an inspection for compliance against the relevant legislation and guidelines outlined in this approval.

Note: Council's Environmental Health Officer can be contacted on 02 9847 6745.

No cost to RMS

All works and regulatory signage are to be at no cost to RMS.