

STATEMENT OF ENVIRONMENTAL EFFECTS

**Catholic Healthcare Jordan Springs
Lot 2 DP 1248137, 55 Jordan Springs Boulevard
(corner with Lakeside Parade), Jordan Springs**

Proposed construction and operation of a multi-level “nursing home” for 144 beds under *Sydney Regional Environmental Plan No. 30 - St Marys*

For:



Submitted to:

Penrith City Council

Date:

July 2019

2018.0015

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1. INTRODUCTION

This report constitutes a Statement of Environmental Effects (SEE) accompanying a Development Application (DA) for the proposed construction and operation of a multi-level “nursing home” for 144 beds under *Sydney Regional Environmental Plan No. 30 - St Marys*, including:

- Site preparation and bulk earthworks;
- Construction of an electrical substation;
- Construction and operation of a 5 level building which will contain:
 - 144 one-bedroom nursing home facility for high and dementia care residents, suitable to accommodate 144 residents;
 - A nursing home building with a gross floor area of 9,454 square metres;
 - Undercroft level car parking for 30 cars inclusive of disabled parking;
 - Ambulance bay;
 - Loading dock with manoeuvring area;
 - Nursing home amenities and facilities which will include:
 - Multi-function space;
 - Activity room;
 - Physiotherapy room;
 - Consulting rooms;
 - Hairdressing salon;
 - Reception and lobby area;
 - Chapel;
 - Administration, manager and staff rooms;
 - Strategically located lounge and dining areas for residents to enjoy outlooks to the landscaped gardens and terraces;
 - Nurse stations at each level;
 - On-site facilities for provision of catering with full commercial kitchen and refrigeration/store rooms;

- On-site linen services;
 - Plant areas;
 - Storage areas;
 - Staff amenities;
 - Lift access to each level of the building for all occupants and users; and
- A landscaped garden settings at ground level and private communal courtyards on each level, with an area of some 1,433 square metres of landscaped open space to accommodate formal settings, outdoor seating, gardens which surround the built form extending towards the Jordan Springs and Lakeside Parade boundaries while at the same time fencing to provide a secure environment for occupants.

This SEE report is submitted to:

Penrith City Council

Address of land affected:

Lot 2 DP 1248137, 55 Jordan Springs Boulevard (corner of Lakeside Parade), Jordan Springs

This SEE has been prepared on behalf of the applicant Catholic Healthcare Limited (CHL) by Higgins Planning (HP) in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the *Environmental Planning and Assessment Regulation 2000* (EP&A Reg.).

This SEE provides:

- A description of the site and locality;
- A description of the proposed development;
- An assessment of relevant environmental planning considerations under Section 4.15 of the EP&A Act including compliance with relevant planning instruments and controls, environmental impacts, site suitability and the public interest; and

Conclusions on the environmental planning assessment and merits of the proposed development on which the application can be supported by Council and granted consent.

1.1 BACKGROUND

1.1.1 Pre-lodgement meeting

On 5 July 2018, the applicant met with Council to discuss the proposed development in a pre-lodgement meeting. A copy of the pre-lodgement meeting notes from this meeting as issued are included in **Appendix R** and table 1 below includes the applicant's responses to the matters raised:

Table 1: Council Pre-lodgement Meeting Comments and Applicant Responses

Council Feedback	Applicant Response
<p><i>Planning</i></p> <ul style="list-style-type: none"> <i>It is noted that you intend to submit the proposal as a 'nursing home' under the provisions of State Regional Environmental Plan No. 30 – St Marys (SREP 30) and not a 'residential care facility' under the provisions of State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004.</i> <i>It is Council's view that State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004 would apply to the proposed development and your submission should provide an assessment against the requirements of this policy.</i> <i>Further details/justification shall be provided in this regard. In considering the application of State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004 your attention is drawn to Section 3.28 (formally Section 36) of the Environmental Planning and Assessment Act 1979.</i> <i>The site is identified as bushfire prone land and as such is considered 'integrated development' requiring general terms of approval from the Rural Fire Service for the development of land for special fire protection purposes.</i> <i>A consolidated traffic management strategy, including access arrangements into the aged care facility, should be developed in conjunction with the seniors living development (DA18/0678) adjacent to the subject proposal.</i> <i>It is noted that DA18/0678 appears to provide a driveway access point into the proposed aged care facility at the southern boundary, however, further clarification on the overall access arrangements for both developments off Lakeside Parade is required.</i> <i>Consideration should be given to the interface and related amenity impacts between this development and the adjacent low-density senior's development proposed directly to the west.</i> <i>Detailed design discussions on the urban form and structure of was deferred to Council's Urban Design Review Panel meeting. Please refer to Council's Urban Design Review notes dated 10 August 2018.</i> 	<p>Please refer to Sections 4.2.3 and 4.2.8 of this report and Appendix N.</p> <p>Please refer to Appendix K for Bushfire Report.</p> <p>Please refer to Appendix C Traffic and Parking Assessment Report.</p> <p>Please refer to Urban Design Peer Review at Appendix T.</p>
<p><i>Engineering Requirements</i></p> <p><i>General</i></p> <ul style="list-style-type: none"> <i>Council's engineering requirements for subdivisions and developments, including policies and specifications listed herein, can be located on Council's website at the following link: https://www.penrithcity.nsw.gov.au/Building-and-Development/Development-Applications/Engineering-requirements-for-developments/</i> <i>All engineering works must be designed and constructed in accordance with Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Council's Engineering Construction Specification for Civil Works.</i> 	<p>Please refer to Appendix H.</p>

Council Feedback	Applicant Response
<p>Stormwater</p> <ul style="list-style-type: none"> • Stormwater drainage for the site must be in accordance with the following: <ul style="list-style-type: none"> — Council's Development Control Plan, — Stormwater Drainage Specification for Building Developments policy, and — Water Sensitive Urban Design Policy and Technical Guidelines. • A stormwater concept plan, accompanied by a supporting report and calculations, shall be submitted with the application. • This development will require an easement to drain water over downstream properties. Evidence of owner's consent shall be provided with the application for the provision of the easement. The easement to drain water must be registered prior to the issue of an operational consent. The easement width is to be in accordance with Council's Stormwater Drainage Specification for Building Developments – Table 2 Width of Drainage Easement. • The development shall address the Water Soils and Infrastructure Report adopted as part of the Western Precinct – Precinct Plan and Development Control Strategy. The report is available from Council's website at the following link: https://www.penrithcity.nsw.gov.au/Documents/Building-and-Development/Western-Precinct-Plan-Appendix-F/ • A water sensitive urban design strategy prepared by a suitably qualified person is to be provided for the site. The strategy shall address water conservation, water quality, water quantity, and operation and maintenance. 	<p>Please refer to Appendix H</p>
<p>Traffic</p> <ul style="list-style-type: none"> • The application shall be supported by a traffic report prepared by a suitably qualified person addressing, but not limited to, traffic generation, access, car parking, and manoeuvring. • The full details of any intersection treatment in Lakeside Parade are to be included in the application including turn paths for all vehicles into and out of the site. Dimensions of the right turn storage bay, driveway width and lane widths are also to be included. • It is noted that plans have been forwarded directly to Council's Traffic Engineering Team for review outside the pre-lodgement meeting (Ground Floor Plan DA-200 Issue B) regarding driveway access for the proposed development off Lakeside Parade. The review of these plans should not be undertaken in isolation of development application DA18/0678 currently under assessment. As previously advised a consolidated traffic management strategy should be prepared for both developments. • The application must demonstrate that access, car parking, and manoeuvring details comply with AS2890 Parts 1, 2 & 6 and Council's Development Control Plan. • The proposed development shall be designed to be serviced by a 10.5m Service Vehicle. Internal vehicle turn paths for the 10.5m service vehicle are to be provided demonstrating access to all garbage collection areas. • The application shall be supported by turning paths in accordance with AS2890 clearly demonstrating satisfactory manoeuvring on-site and forward entry and exit to and from any public road. 	<p>Please refer to Appendix C.</p>
<p>Earthworks</p> <ul style="list-style-type: none"> • No retaining walls or filling is permitted for this development which will impede, divert or concentrate stormwater runoff passing through the site. 	<p>Please refer to Appendix H</p>

Council Feedback	Applicant Response
<ul style="list-style-type: none"> • Earthworks and retaining walls must comply with Council's Development Control Plan. • Proposed fill material must comply with Council's Development Control Plan. 	
<p><i>Waste Requirements</i> <i>Commercial Waste Management</i> Waste infrastructure is to be designed in accordance with the commercial provisions contained within Section 2.2.1 of the 'Residential Flat Building Guideline' document. Note: Following the pre-lodgement meeting, further discussions were held, and a small rigid vehicle was proposed by the applicant as an 'Alternate Solution'. This can be considered by Council where an improved planning outcome is achieved for the site. Details/justification shall be submitted with the development application. A Waste Management Plan shall be submitted with any development application outlining:</p> <ul style="list-style-type: none"> • Bin Infrastructure Sizes • Collection Frequency • Waste Collection Vehicle Dimensions (SRV proposal) • Hours of Collection • Access to Waste Collection Room - How the waste collection vehicles will operate with other commercial vehicles utilising the loading bay - Swept path models showing minimum clearances - Unobstructed internal height clearances in accordance with AS2890.2 - Abloy key system to permit access into the basement <p>Waste Infrastructure Guidelines can be located using the following link: https://www.penrithcity.nsw.gov.au/Building-and-Development/Development-Applications/Forms/</p>	<p>Please refer to Appendix D</p>
<p><i>Building Requirements</i></p> <ul style="list-style-type: none"> • Hydrant protection of the building is required, it is likely an on-site hydrant and booster assembly will be necessary. The proposed location of any such servicing requirements shall be shown on the architectural plans. Any substations, hydrants and boosters shall be integrated within the overall architecture/design of the development. • Access for emergency vehicles, particularly FRNSW appliances, will need to be addressed. • An Access Report addressing accessibility will be required. • Ensure combustible cladding is not used. 	<p>Please refer to F for BCA and Access Report.</p>

1.1.2 Urban Design Panel Meeting

On 10 August 2018, the applicant met with Council's Urban Design Review Panel to discuss the proposed development in a pre-lodgement meeting. A copy of the pre-lodgement meeting notes from this meeting as issued are included in **Appendix S** and in response the applicant's sought advice from an urban designer. Please refer to the Urban Design Peer Review advice in **Appendix T** which includes responses to the matters raised by the panel.

1.1.3 Existing Approvals

Lend Lease in 2018 lodged a number of DAs and recently gained approved on the land known as Lot 3991 DP 1190132 the following:

1. DA18/0655 – Torrens Title subdivision to create 31 lots including associated civil works, public roads, landscaping and tree removal. This DA was approved on 21 January 2019;
2. DA18/0678 – Staged concept development comprising Stage 1 works involving construction of 51 seniors living villas, civil works and landscaping and stage 2 concept development for future independent living units. This DA was approved on 6 March 2019;
3. DA18/0714 – Torrens Title subdivision to create 3 lots and ancillary drainage works. This Da was approved on 25 January 2019. It is noted that as at 24 April 2019 this plan of subdivision had not been registered, however during the assessment of this CHL this plan of subdivision will become registered and therefore Lot 2 in DP 1248137 will become land owned by CHL.

Prior to the above approvals, the JRPP granted approval to DA15/0163 which involved Stage 1 Construction of 4 x residential flat buildings (138 residential apartments), 1 x mixed use building (ground floor commercial and 63 apartments), basement car parking, road construction, drainage works, public open space, landscape works, earthworks and tree removal, subject to conditions.

This approval involved granting an approval for an apartment building over 6 levels at the corner of Jordan Springs Boulevard and Lakeside Parade.

1.2 REPORT STRUCTURE

This SEE report has a number of Parts including:

- Part 1 – Introduction and Background;
- Part 2 – Regional and Local Context;
- Part 3 – Detailed Description of the Proposed Development including relevant operational considerations;
- Part 4 – Assessment against the applicable Commonwealth, State and local planning controls; and
- Part 5 – Conclusion.

1.3 APPLICANT'S CONSULTING REPORTS AND DRAWINGS

This Development Application is supported by a number of investigations, concept drawings and assessments undertaken by the applicant's team of consulting specialists who have prepared information which forms the appendices to this SEE report. Table 2 summarises the documents referenced in each appendix and the associated responsible author:

Table 2: Specialists Documents and Appendices References

Appendix Reference	Document	Responsible Author
Appendix A	Detailed Survey	SDG
Appendix B	Architectural Drawings and Design Statement	Young and Metcalf
Appendix C	Traffic and Parking Assessment Report	Colston Budd Rogers & Kafes
Appendix D	Waste Management Plans	Universal Foodservice Designs
Appendix E	Landscape Concept Plans	Site Image
Appendix F	BCA and Access Statement	Blackett Maguire & Goldsmith
Appendix G	QS CIV Letter	Hanna Newman and Associates
Appendix H	Civil Engineering Drawings, Stormwater Management Drawings and Sedimentation and Erosion Control Plan, WSUD Report & Model	Site Plus
Appendix I	Preliminary Contamination Report and Site Audit Statement	URS
Appendix J	Geotechnical Report	Alliance Geotechnical
Appendix K	Bushfire Assessment Report	Blacklash
Appendix L	Flora and Fauna Report	Cumberland Ecology
Appendix M	Section J Report	Northrop
Appendix N	Legal Advice Letter	Allens Linklaters
Appendix O	Social Impact Statement	Judith Stubbs & Associates
Appendix P	Acoustic Report	Acoustic Logic
Appendix Q	Compliance Tables	HP
Appendix R	Pre-lodgement Meeting Minutes	Penrith City Council
Appendix S	Urban Design Panel Meeting Notes	Penrith City Council
Appendix T	Urban Design Peer Review	Don Fox Planning

2. THE SITE

2.1 LOCATION AND CONTEXT

The site of the proposed development will be known as Lot 2 DP 1248137, 55 Jordan Springs Boulevard, Jordan Springs, located at the corner of Jordan Springs Boulevard and Lakeside Parade, Jordan Springs. The land does not have a street address. Lot 2 in DP 1248137 was previously known as part of Lot 12 DP 1244083, and prior to this part of Lot 3991 DP 1190132. The site is located to the western side of Lakeside Parade and the southern side of Jordan Springs Boulevard and is currently vacant. Lot 2 has a frontage of in excess of 58.25 metres to Jordan Springs Boulevard and 78.09 metres to Lakeside Parade.

Please see **Figure 1** below for site aerial context.



Figure 1: Site Aerial (highlighted by yellow shading is currently Lot 12 DP1244083 and the site solid red outline)
Source: SiX

The site is located approximately 50m to the south of the Jordan Springs Village Centre.

The site is immediately adjacent to the Jordan Springs Village Centre in Jordan Springs (formerly known as the Western Precinct under the *Sydney Regional Environmental Plan No. 30 – St Marys*). The site was formerly used as the Australian Defence Industry (ADI) site. The former ADI site was declared a land release area by the Minister for Planning on 29 September 2006. Under a concept plan prepared by Lend Lease, the site forms part of what was formerly known as the ‘Western Precinct’ (now Jordan Springs). Jordan Springs consists of 229ha of land zoned for urban use and is anticipated to be home to 2450 dwellings and a residential population in the order of 6,400.

The Village Centre at Jordan Springs is located approximately 400m from the Northern Road, accessed via Jordan Springs Boulevard.

Jordan Springs is located some 3.5 kilometres to the north-east of the Penrith City Centre, and 27 kilometres to the north-west of the Parramatta City Centre.

See **Figure 2** for context in relation to Penrith City Centre.

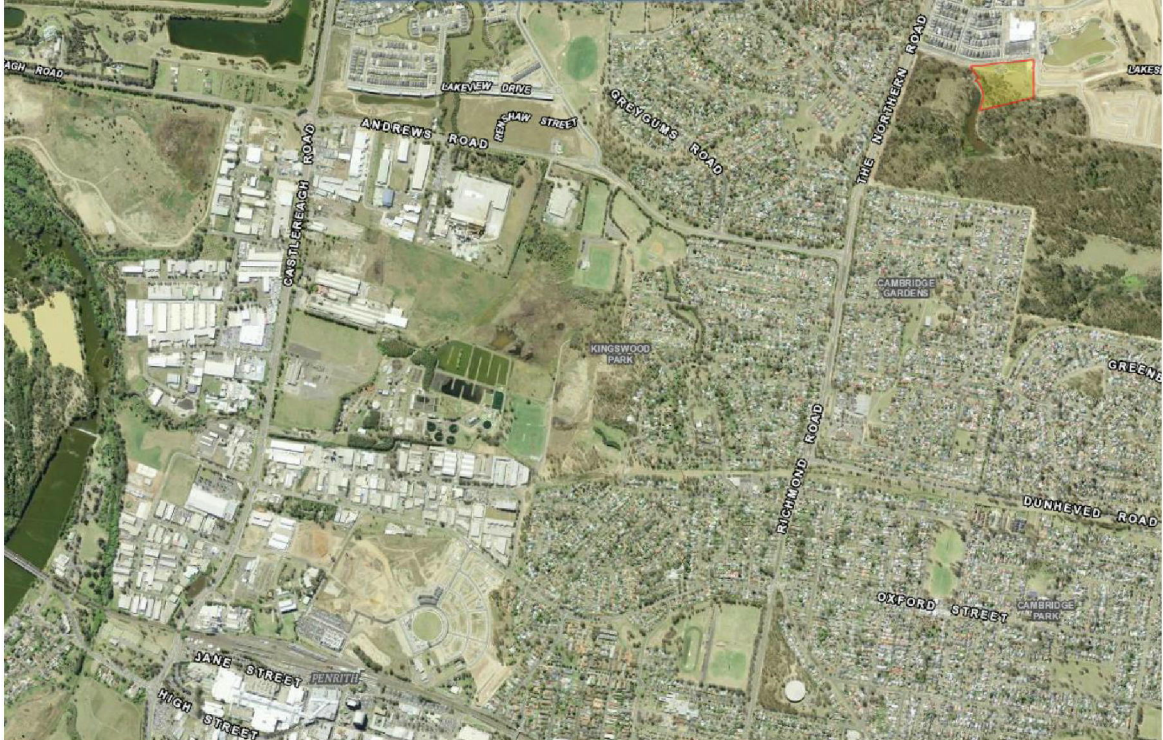


Figure 2: Site Aerial Context (site highlighted by yellow shading and red outline)

Source: SiX

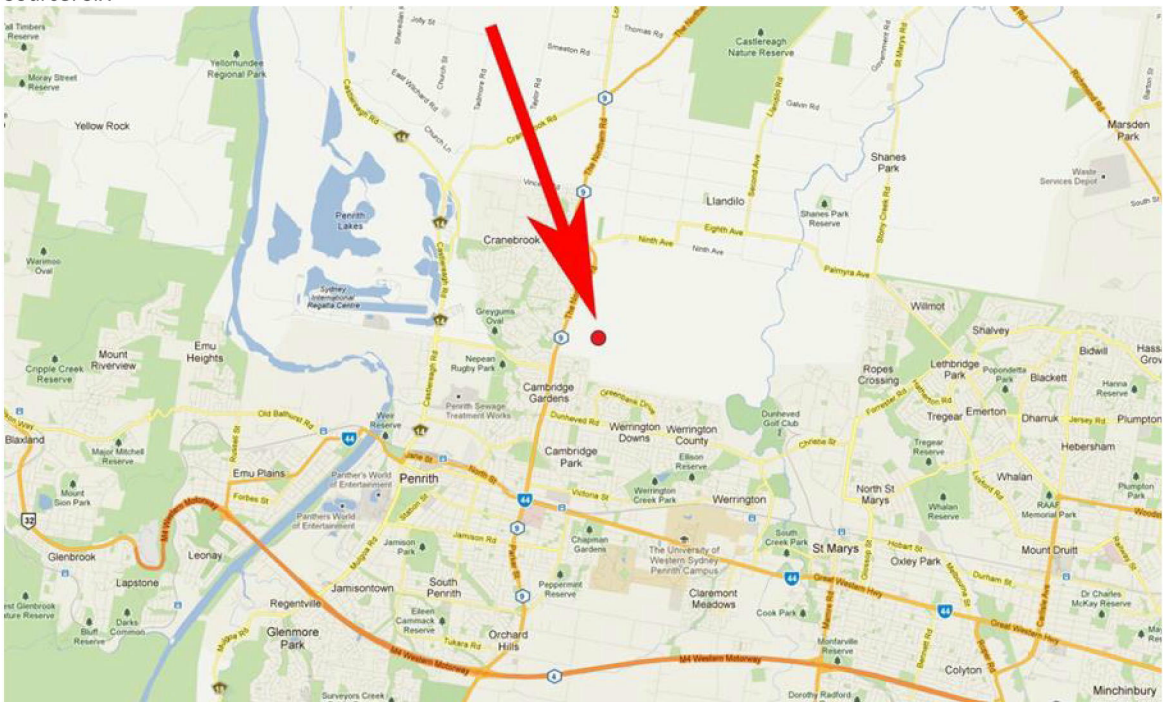


Figure 3: Regional Context (site defined by red dot and red arrow)

Source: Google Maps

Figure 3 above demonstrates the location of the site relative to its surrounding suburbs.

The site is located in the Village Centre of Jordan Springs (Western Precinct) as can be seen in **Figure 4** below:

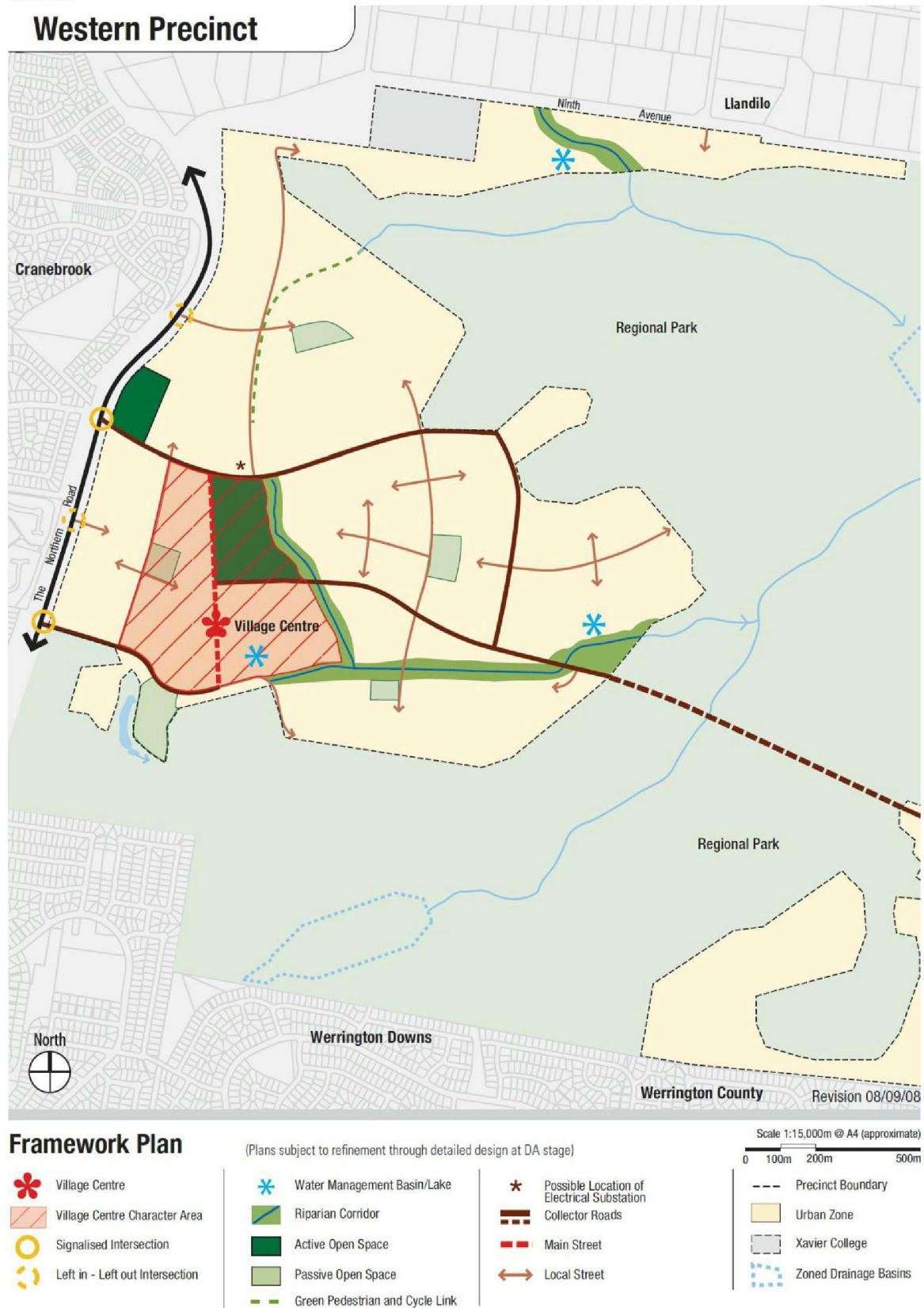


Figure 4: Western Precinct Framework Plan

Source: Western Precinct Plan and Development Strategy

2.2 LEGAL DESCRIPTION

The portion of the site on which this Development Application (DA) is proposed is legally known as Lot 2 in DP 1248137. Refer to the detailed site survey at **Appendix A**. The total site area is 5,004 square metres.

2.3 SURROUNDING SITE DEVELOPMENT

The subject site is located next to the Village Centre Character area as depicted on the map.

Under the St Marys Western Precinct Plan and Development Control Strategy, non-residential built form in the Village Centre Character Area will include a variety of uses including retail, commercial, mixed use, community and education buildings.

To the north, the site is adjacent to retail shops and car parking forming part of the Jordan Springs Village Centre. To the north-east, the site is adjacent to the Village Lake, sales centre and stormwater retention system. Land dedicated to a future drainage channel and Wianamatta Regional Park are located to the south of the site.

Land to the west will form future stages of further development (subject to the recently approved Development Applications as discussed previously).

Photos 1 – 8 below demonstrate the existing development on the subject site.



Photo 1: View of site frontage to Lakeside Parade at corner with Jordan Springs Boulevard



Photo 2: View of site frontage to Lakeside Parade



Photo 3: View of site frontage to Lakeside Parade



Photo 4: View of site frontage to Lakeside Parade



Photo 5: View of site frontage to Jordan Springs Boulevard frontage at corner with Lakeside Parade



Photo 6: View of site frontage to Jordan Springs Boulevard



Photo 7: View of Jordan Springs Village car park opposite



Photo 8: View of Lake at intersection of Lakeside Parade with Jordan Springs Boulevard opposite site

The following photographs demonstrate buildings and development on nearby land.



Photo 9: View of apartment building on the corner of Lakeside Parade with Cullen Avenue



Photo 10: View of apartment building on the corner of Cullen Avenue with Charlotte Street



Photo 11: View of main pedestrian entry to Jordan Springs Village from Lakeside Parade



Photo 12: View of Lakeside Parade towards Jordan Springs Village and side to the left

3. DESCRIPTION OF THE PROPOSED DEVELOPMENT

3.1 OVERVIEW OF THE PROPOSAL

Proposed construction and operation of a multi-level “nursing home” for 144 beds under *Sydney Regional Environmental Plan No. 30 - St Marys*:

- Site preparation and bulk earthworks;
- Construction of an electrical substation;
- Construction and operation of a 5 level building which will contain:
 - 144 one-bedroom nursing home facility for high and dementia care residents, suitable to accommodate 144 residents;
 - A nursing home building with a gross floor area of 9,454 square metres;
 - Undercroft level car parking for 30 cars inclusive of disabled parking;
 - Ambulance bay;
 - Loading dock with manoeuvring area;
 - Nursing home amenities and facilities which will include:
 - Multi-function space;
 - Activity room;
 - Physiotherapy room;
 - Consulting rooms;
 - Hairdressing salon;
 - Reception and lobby area;
 - Chapel;
 - Administration, manager and staff rooms;
 - Strategically located lounge and dining areas for residents to enjoy outlooks to the landscaped gardens and terraces;
 - Nurse stations at each level;
 - On-site facilities for provision of catering with full commercial kitchen and refrigeration/store rooms;

- On-site linen services;
- Plant areas;
- Storage areas;
- Staff amenities;
- Lift access to each level of the building for all occupants and users; and

A landscaped garden settings at ground level and private communal courtyards on each level, with an area of some 1,433 square metres of landscaped open space to accommodate formal settings, outdoor seating, gardens which surround the built form extending towards the Jordan Springs and Lakeside Parade boundaries while at the same time fencing to provide a secure environment for occupants.

Details of the proposed development are demonstrated in the architectural drawings found in **Appendix B**. In addition, landscape concept plans have been prepared and can be found at **Appendix E**.

3.2 CATHOLIC HEALTHCARE

Catholic Healthcare Limited (CHL) is a Commonwealth registered not-for-profit organisation, owner and operator of existing high-quality and award winning nursing home facilities throughout New South Wales and Queensland. CHL currently operates 42 nursing home facilities, 10 retirement living communities and 2 health care services, which provides services to more than 4,700 people in the community.

CHL was established in 1994 and their team have been operating in the aged care industry since 1998. These existing facilities offer a full range of services from high care, dementia care, extras services such as disabled services, palliative care, respite care and day respite care facilities.

Details about CHL and their existing facilities can be found at the following link:

<http://www.catholichealthcare.com.au/>

CHL seek to provide a superior designed nursing home facility in Jordan Springs to provide increased opportunities for older members of the community who seek access to the high standards of care, allowing residents to age in place. Up to 40% of places will be made available for concessional residents as assisted beds.

An example of the standard of living sought to be achieved at Jordan Springs is that which can be found at the existing aged care facilities at St Peters (Lane Cove), and Emmaus Village (Kemps Creek).

3.3 NEEDS ASSESSMENT

CHL have undertaken their own “Needs Assessment” to evaluate the proposed inclusion of a new “nursing home” within the Penrith City Local Government Area (LGA) which has identified the project is required in this location to assist with the ageing population’s needs and provision of a new facility.

The Social Impact Statement at **Appendix O** includes information to assist with the evaluation of the need for the project as well.

3.4 THE SITE TOPOGRAPHY AND GROUND FLOOR FINISHED LEVELS

The site has a cross falls but is relatively flat. The existing site levels are proposed to be altered in order to accommodate the required finished floor level inclusive of accessible paths of travel and including new recreation facilities.

It should be noted as indicated on the site detailed survey that the existing land topography “dips away” from its Jordan Springs and Lakeside Parade frontages which naturally accommodates an undercroft car parking area in the southern ground floor area while at the same time create a ground floor level with Lakeside Parade but cannot be level with Jordan Springs Boulevard due to the need to accommodate accessible pathways around the perimeter of the building.

3.5 DETAILED DESCRIPTION OF PROPOSED NEW NURSING HOME BUILDING

Ground Floor Level: is the lowest level of the “nursing home” which can be accessed via the main driveway to the “Porte cochere” for all pedestrians and visitor car parking area, with centrally located lifts for access to the care levels. This level includes the following:

- Multi-function space;
- Activity room;
- Physiotherapy room;
- Consulting rooms;
- Hairdressing salon;
- Reception and lobby area;
- Chapel;
- Administration, manager and staff rooms;

- On-site facilities for provision of catering with full commercial kitchen and refrigeration/store rooms;
- On-site linen services;
- Plant areas;
- Storage areas;
- Staff amenities;

As a result of the site topography, this level of the building is slightly lower than Jordan Springs Boulevard due to the existing “dip” away from the site’s road frontage. The finished level of the ground floor level has been carefully considered to create accessible paths as means for residents to access the main entry from Lakeside Parade is level with the existing footpath/roadway to gain access to landscaped gardens around the perimeter of the site and create a “through-site link” running east-west between Lakeside Parade and the approved villa development to the west of the proposed building.

An electrical substation is required which is positioned adjacent to the Jordan Springs Boulevard frontage for connection to existing infrastructure. The loading dock is in the undercroft car parking area to maintain security and at the same time contain noise. The internal manoeuvring area and access to the car parking are also located on the ground floor level.

As shown in the landscape concept design, the loading dock will be suitably screened from both the adjoining property to the west and the Lakeside Parade public street frontage.

Level 1 floor Plan: has been designed to include 36 rooms, resident facilities such as dining areas and lounge areas overlooking terrace areas, nurses’ stations, in addition to utility and storage spaces associated with administration and other functions required for the nursing home facility. The design a secure area and rooms suitable to enable residents whose dementia requires increased support to remain on-site rather than relocate to another facility.

Level 2 floor Plan: has been designed to include 36 rooms, resident facilities such as dining areas and lounge areas overlooking courtyard areas and terraces, nurses’ stations, in addition to utility and storage spaces associated with administration and other functions required for the nursing home facility with a lift foyer.

Level 3 floor plan: has been designed to include 36 rooms, resident facilities such as dining areas and lounge areas overlooking courtyard areas and terraces, nurses’ stations, in addition to utility and storage spaces associated with administration and other functions required for the nursing home facility with a lift foyer.

Level 4 floor plan: has been designed to include 36 rooms, resident facilities such as dining areas and lounge areas overlooking courtyard areas and terraces, nurses’ stations, in addition to utility and storage spaces associated with administration and other functions required for the nursing home facility with a lift foyer.

A reduced set of the architectural drawings prepared for the project by Young and Metcalf can be found in **Appendix B**. In addition, Young and Metcalf has prepared an architectural design statement which demonstrates the principles which have underpinned the design development of the “nursing home”, both included in **Appendix B**.

The design of the proposed development is unique for CHL given the topographical site features. The team from Young and Metcalf have developed a design to respond to the site’s unique characteristics, which is also mindful of the objectives sought by the client, while at the same time designing a modern state of the art “nursing home” under the provision of SREP St Marys.

The design statement includes details of the finishes and material proposed to be included in the streetscape presentation and details the design rationale for the project, along with details of the articulation of each residential cluster in the design of the building, so as to create a variable street setback to each street frontage. The architectural design statement at **Appendix B** advises in part:

The building is designed to present with a base, a middle and a recessed top with floating roof. The height and scale are reduced by the changing depth, articulation, materials and colours of the façade. The recessive appearance of the top floor and roof edge detail further promote the reduced scale and bulk.

The building comprises a northern wing and an offset south western wing linked across the middle of the site. The northern wing wraps across the northern front of the site and is separated from the middle section creating a courtyard a breaking up the western building line.

The eastern elevation is split by the setting back of the southern wing emphasising the building main access point for pedestrians and vehicles.

The setting back opens up the view corridor from the village centre along Lakeside Parade to the Regional Park bushland to the south.

The building site to the southern end of the village centre precinct and “bookends the main street in similar character to the residential towers to the north of the retail centre.

3.6 VEGETATION AND LANDSCAPING

All trees, both within the subject site and those which may be impacted outside of the subject site, have been assessed, as contained within the report included at **Appendix L**.

The design of the proposed development includes setbacks to accommodate new landscape tree plantings, the application is accompanied by Landscape Concept Drawings, refer to **Appendix E**, which include new street trees.

3.7 STORMWATER MANAGEMENT

The proposed development includes a concept drainage design to connect to Council’s system with improvements compared to the current site development, in accordance with Council’s requirements. As such, the proposed development can manage its stormwater discharge appropriately. Refer to the stormwater management design concept drawings at **Appendix H**.

3.8 TRAFFIC, ACCESS AND PARKING

3.8.1 Pedestrian and disabled access

The proposed development includes pedestrian and disabled access off both Lakeside Parade and Jordan Springs Boulevard, and throughout each level of the “nursing home” building via two lifts. Disabled access requirements of the Australian Standard required under the BCA have been considered for the “nursing home”, and a BCA report is included in **Appendix F** in this SEE report.

3.8.2 Vehicle access and parking

One driveway is proposed off Lakeside Parade to undercroft level car parking and servicing in the proposed development as shown in the appended architectural drawings.

The proposed development includes a total of 30 car spaces in an undercover parking area, along with an ambulance bay to attend the site.

The application includes a Traffic and Parking Assessment at **Appendix C**. This report advises:

3.28 In summary, the main points relating to the traffic implications of the proposed development are as follows:

- (i) the proposed development would provide for a scale of development comprising 108 108 independent/residential care beds and 36 high dependency care beds;*
- (ii) the proposed development will be accessible by established bus services and pedestrian facilities in and around Jordan Springs town centre;*
- (iii) pedestrian paths of travel and safety are key to ensuring a high level of accessibility and this is maintained by provision of footpaths that link with existing facilities;*
- (iv) parking provision is in accordance with the requirements of DCP 2014 and SEPP Senior Living;*
- (v) vehicular access, internal circulation and car parking and loading area layouts will be provided in accordance with relevant Australian Standards;*
- (vi) the surrounding road network will be able to cater for the nominal traffic generation associated with the proposal; and*
- (vii) sensitivity testing confirms growth in traffic on the adjacent streets to account for broader road network changes would not impact the operation of the surrounding intersections.*

3.9 SITE MANAGEMENT

The proposed nursing home facility will be owned, operated and managed by the applicant CHL. As residents will be located within the facility on a permanent basis as their home in the later stages of ageing, the “nursing home” will operate 24 hours a day, 7 days a week.

3.9.1 Staffing

The nursing home facility will employ a total of 41 staff in full-time, part-time and casual roles. Shift rotations will be staggered to ensure that change over periods minimise the movement of cars in the undercroft, ensure availability for staff to park and any associated impacts. This arrangement for staggered shift change over periods is in operation at existing CHL facilities and management practices work to ensure that no unacceptable impacts occur to adjoining properties.

3.9.2 Waste management

An operational waste management plan is included in **Appendix D**. A waste management room is proposed in the ground floor level, and waste collection is proposed with private contractors within the access driveway and servicing area off Lakeside Parade. Staff will be responsible for transferring waste from the “nursing home” operational levels of the building to the storage room and waste collection area at the Lakeside Parade frontage. A detailed construction management plan can be supplied by the appointed builder prior to the issue of a Construction Certificate.

3.9.3 Security and access control

The proposed development will be fitted with access controls including secure doors with electronic key access at all access points including both the pedestrian and disabled access points and vehicle access point.

CCTV and site security services will be implemented. Refer to the summary of Crime Prevention through Environmental Design (CPTED) measures discussed at Section 4.8.19 of this SEE.

3.10 CIVIL WORKS TO ROADS

This DA seeks approval for the civil design details associated with a new access from Lakeside Parade infrastructure and stormwater management including WSUD. The engineering design concept drawings for the roadworks are contained within **Appendix H**.

3.11 SITE IDENTIFICATION SIGNAGE

CHL building identification signage zones are proposed to be placed on the building as indicated in drawing No. DA-500, on the Lakeside Parade frontage in the form of a pylon sign adjacent to the main pedestrian and car entry of the site as wayfinding to access the site and on the elevations. The pylon sign is proposed to be 3.5m high x 1.2m wide, the flush wall signage zones for CHL building identification will each be illuminated, include business identification information such as the words “Catholic Healthcare”, Jordan Springs or the name of the nursing home, and the CHL logo.

3.12 UTILITY INFRASTRUCTURE INSTALLATIONS AND UPGRADES

The site has access to connections to existing utility service infrastructure including water, sewer, gas, electricity and telecommunications which will be installed, upgraded and augmented, as required.

4. ENVIRONMENTAL ASSESSMENT

4.1 COMMONWEALTH ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT

The application does not trigger a controlled action under the Commonwealth *Environment Protection and Biodiversity Conservation Act* (EPBC Act).

4.2 NSW THREATENED SPECIES CONSERVATION ACT 1995 AND NSW BIODIVERSITY CONSERVATION ACT 2016

A Flora and Fauna Assessment Report in the form of a Species Impact Statement (SIS) has been prepared by Cumberland Ecology which is included at **Appendix L**.

The SIS confirms the *NSW Threatened Species Conservation Act 1995* (TSC Act) was repealed and replaced by the *NSW Biodiversity Conservation Act 2016* (BC Act) on 25 August 2017. The SIS is a detailed assessment of the proposed works within Lots 3990 and 3991 in DP1190132 of the Jordan Springs Retirement Village development area. The SIS assesses the impacts of development across the Western Precinct as a whole, as detailed in the approved Precinct Plan. It contains specific assessment of threatened species, populations and ecological communities listed in the schedules of the TSC Act.

4.3 NSW ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (EP&A ACT)

The following sections of this SEE report provides an assessment against the relevant provisions of the EP&A Act:

4.3.1 Section 2.12 of the EP&A Act – District and Regional Planning Panels

Pursuant to Section 2.12 of the EP&A Act, the Minister by Order as published, constituted the District Panel to determine a DA which is regional development as outlined in Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011*, where:

- *Regional development, as outlined in Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011*
 - *development with a capital investment value (CIV)* over \$30 million*
 - *development with a CIV* over \$5 million which is:*
 - *council related*
 - *lodged by or on behalf of the Crown (State of NSW)*
 - *private infrastructure and community facilities*
 - *eco-tourist facilities*
 - *extractive industries, waste facilities and marinas that are designated development,*
 - *certain coastal subdivisions*
 - *development with a CIV* greater than \$30 million which is referred to the Planning Panel by the applicant after 120 days*

* Capital investment value (CIV) is calculated at the time of lodgement of the DA for the purpose of determining whether an application should go to a Planning Panel - refer to Planning Circular PS 10-008.

The proposed development involves a CIV with a value of greater than \$30 million for a council related project (refer to QS CIV at **Appendix G** which indicates \$32,708,304). Therefore, this any DA submitted will trigger the determining authority as the District Panel.

4.3.2 Section 2.17 of the EP&A Act – Local Planning Panels

Pursuant to Section 2.17 of the EP&A Act, the Minister by Order as published, constituted the Local Planning Panels (IHAPs) to determine a DA which meets certain “Referral criteria”. As the District Panel is the determining authority, the local planning panel will not be involved with this process. For completeness the referral criteria include:

Table 3: Summary of IHAP criteria

Summary of IHAP Development Application Criteria	
Conflict of interest	<p>Development for which the applicant or landowner is:</p> <ul style="list-style-type: none"> the council a councillor a member of staff who is principally involved in the exercise of council’s functions under the EP&A Act a member of Parliament or a relative of one of the above.
Contentious development	<ul style="list-style-type: none"> council’s approved submission policy triggers a referral or for schedules 1 and 2 only — DA that receives 10 or more unique objections or for schedule 3 only — DA that receives 25 or more unique objections.
Departure from development standards	<p>Development that contravenes a development standard imposed by a planning instrument by:</p> <ul style="list-style-type: none"> more than 10% or non-numerical development standards or for schedule 3 only — more than 25% for dwelling houses, dual occupancies and attached dwellings.
Sensitive development	<ul style="list-style-type: none"> designated development for schedule 1 only — Residential Flat Building, 3 or more storeys in height for schedules 2 and 3 only — Residential Flat Building, 4 or more storeys in height demolition of a heritage item development for the purposes of new premises that will require: <ul style="list-style-type: none"> a club licence or a hotel (general bar) licence or an on-premises licence for public entertainment venues development for the purpose of sex services premises and restricted premises <p>DAs for which the developer has offered to enter into a planning agreement.</p>

4.3.3 Section 3.28 of the EP&A Act – Inconsistency between instruments

Council has raised in the pre-lodgement meeting notes that pursuant to Section 3.28 of the EP&A Act, the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors Housing SEPP) prevail over *Sydney Regional Environmental Plan No. 12 St Marys* (SREP) and that Council requires an assessment against SEPP Senior Housing, as follows:

- *It is noted that you intend to submit the proposal as a 'nursing home' under the provisions of State Regional Environmental Plan No. 30 – St Marys (SREP 30) and not a 'residential care facility' under the provisions of State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004.*

It is Council's view that State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004 would apply to the proposed development and your submission should provide an assessment against the requirements of this policy.

Further details/justification shall be provided in this regard. In considering the application of State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004 your attention is drawn to Section 3.28 (formally Section 36) of the Environmental Planning and Assessment Act 1979

As a result of Council's feedback, the applicant CHL has obtained legal advice which indicates CHL may elect to lodge this DA under the provisions of the SREP and in doing so because there is no inconsistency between the Seniors Housing SEPP and the SREP the provisions of Section 3.28 of the EP&A Act do not apply, where the legal advice prepared by Allens Linklaters advises:

*It is open to CHL to elect whether to lodge the DA under either the SREP or the SEPP. The decision of the Land and Environment Court in *Mete v Warringah Council*⁴ is direct authority for this proposition. In *Mete*, a development application was lodged under the relevant local environmental plan (WLEP), and was appealed to the Court at a time when *State Environmental Planning Policy (Seniors Living) 2004 (SEPP(SL))* (which is a precursor to the SEPP) had come into force. Similarly to the facts in the present case, the development application in *Mete* could comply with applicable development standards under the WLEP but not with those which would apply under the SEPP(SL).*

*In *Mete v Warringah Council*, Talbot J held:*

Assuming there is no relevant inconsistency in respect of particular provisions in the two environmental planning instruments, they now operate concurrently so that an applicant for a relevant development consent can elect to apply for consent pursuant to or under the provisions of WLEP or SEPP(SL). SEPP(SL) applies to all land within New South Wales, including the land in the Warringah local government area but it is not expressed in a way which excludes the operation of WLEP, except to the extent of any inconsistency.⁵

Likewise in this context, the SEPP is not expressed in a way which excludes the operation of the SREP. You have instructed us that CHL would prefer to lodge the DA for the RACF under the SREP and not the SEPP.

The CHL legal advice further states:

The effect of sub-clause 40(1) is that only development applications made pursuant to the SEPP will be subject to the development standards set out in the clause. The DA in this instance does not fall within the purview of sub-clause 40(1) as it has not been lodged pursuant to Chapter 3 the SEPP. Rather, the application is permissible pursuant to the SREP, and is made under the SREP. As such, given the DA will not be subject to any development standards specified from sub-clause 40(2) onwards under the SEPP, the consent authority will not be obliged to refuse consent to the DA due to any failure to comply with those standards.

There is no inconsistency between the Seniors Housing SEPP and SREP St Marys in the assessment of this DA. The CHL legal advice states:

6 No inconsistency between SEPP and SREP

1. 6.1 SREP is a deemed State environmental planning policy

The SREP is a form of regional environmental plan that is no longer made under Division 2, Part 3 of the Act.⁸ Under the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (NSW), clause 120 of Schedule 1 provides that all regional environmental plans are deemed to be State environmental planning policies under Division 2, Part 3 of the Act. As such, the SREP is deemed to be a State environmental planning policy.

2. 6.2 Section 3.28 of the Act does not apply

Section 3.28 (former section 36) of the Act states:

(2) In the event of an inconsistency between environmental planning instruments and unless otherwise provided:

(a) there is a general presumption that a State environmental planning policy prevails over a local environmental plan or other instrument made before or after that State environmental planning policy

... [our emphasis]

The operative words in this instance are '[i]n the event of an inconsistency'. In this instance, there is no inconsistency as the DA has only been lodged under one environmental planning instrument, being the SREP, and therefore only the provisions under the SREP are applicable.

As stated in this SEE report on the title page, and in Chapters 1 and 3, this DA has been prepared and submitted to Council under SREP St Marys for determination. Section 4.3.8 of this SEE report includes an assessment of the DA against the provisions of SREP St Marys. This DA is not submitted under the Penrith Local Environmental Plan 2010, and as such the provisions of the Penrith Local Environmental Plan 2010 are not applicable to this DA. The relevant matters under the Seniors Housing SEPP have been considered in the Allens Linklaters legal advice. A copy of the CHL legal advice is included at **Appendix N**.

In addition, CHL have obtained legal advice to demonstrate that *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65) does not apply to the proposed development. A copy of this CHL legal advice is also included at **Appendix N**.

In other matters, the proposed “nursing home” for 144 beds/places under SREP 30 does not trigger any criteria under *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.

4.3.4 Section 4.13 of the EP&A Act – Consultation and Concurrence

Pursuant to Section 4.13 of the EP&A Act, several consultations and concurrences can be triggered under *State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP). The proposed development does not involve works which require a concurrence under the provisions of the Infrastructure SEPP.

4.3.5 Section 4.13B of the EP&A Act - Concurrence

Pursuant to Section 4.13B of the EP&A Act, a number of concurrences may be triggered under *State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP). The proposed development will require a referral under the provisions of the Infrastructure SEPP to the energy provider, but this is not a concurrence.

Pursuant to Section 4.13B of the EP&A Act, no concurrence is required for the proposed development.

4.3.6 Section 4.15 of the EP&A Act - Evaluation

This section provides a preliminary assessment of the relevant environmental planning issues associated with the proposed redevelopment in accordance with Section 4.15(1) of the EP&A Act, which states:

4.15 Evaluation *(cf previous s 79C)*

(1) Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

(i) any environmental planning instrument, and

(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

(iii) any development control plan, and

(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and

(v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),

that apply to the land to which the development application relates,

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

(c) the suitability of the site for the development,

(d) any submissions made in accordance with this Act or the regulations,

(e) the public interest.

4.3.7 Section 4.15(1)(a)(i) – Environmental Planning Instruments

The following environmental planning instruments have been considered in the assessment and preparation of this application:

- *Sydney Regional Environmental Plan No. 30 - St Marys (SREP St Marys);*
- *Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River (No.2) (SREP 20);*
- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004;*
- *State Environmental Planning Policy (State and Regional Development) 2011;*
- *State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP);*
- *State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55); and*
- *State Environmental Planning Policy No. 64 – Advertising and Signage.*

4.3.8 Sydney Regional Environmental Plan No. 30 – St Marys

The main environmental planning instrument applying to the proposal is Sydney Regional Environmental Plan No. 30 – St Marys (SREP St Marys). The following sections undertake an assessment of the proposal against the relevant provisions of the SREP St Marys.

4.3.8.1 Land use zone

The subject site on which the proposed ‘nursing home’ building is to be located is zoned “Urban” under SREP 30. The subject site’s zoning is demonstrated in the extract from the SREP 30 zoning map as shown in **Figure 5** below.

Sydney Regional Environmental Plan No.30 St Marys - Zoning (Amendment No.2)

Zone	
	Urban
	Employment
	Regional Open Space
	Regional Park
	Drainage
	Land Referred to in Clause 58(a) (150m wide)
	Deferred Matter
	Road and Road Widening
	Boundary of the REP
	LGA

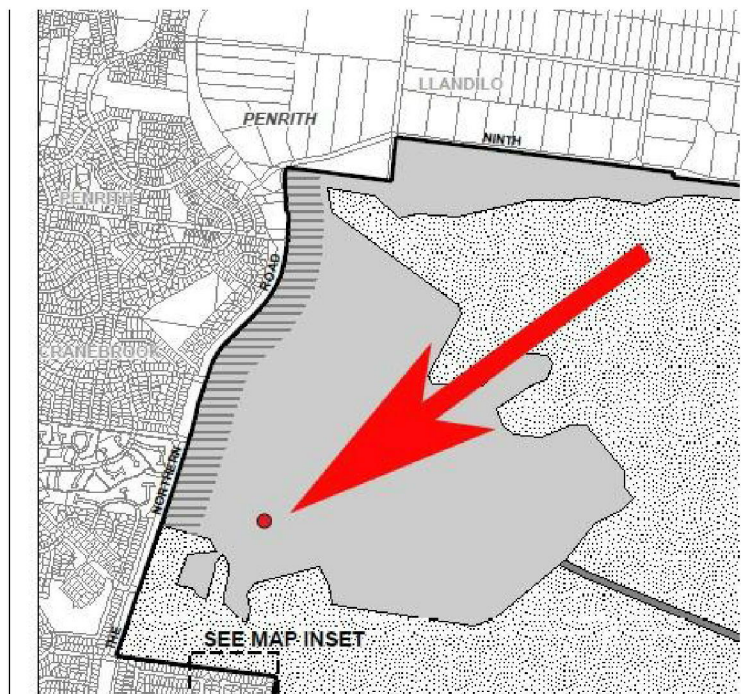


Figure 5: Sydney Regional Environmental Plan No 30 – St Marys: Zoning map
Source: NSW Legislation

4.3.8.2 Permissibility

Clause 40 of SREP 30 states:

40 Urban zone

(1) The objectives of the Urban zone are:

- (a) *to ensure that buildings and works within the zone are primarily used for residential purposes and associated facilities, and*
- (b) *to limit the range and scale of non-residential uses to ensure that they are compatible with residential amenity and primarily serve local residents, and*
- (c) *to provide for local retailing and related services, including supermarkets, which will complement established centres in the Blacktown City and Penrith City local government areas and not have a significant adverse effect on the viability of established retail centres, and*
- (d) *to provide for medium density residential development in locations which provide optimum access to employment, public transport and services, while ensuring residential amenity, and*
- (e) *to promote home based industries where such activities are unlikely to adversely affect the living environment of neighbours, and*
- (f) *to ensure that development adjacent to the Regional Park zone does not have a negative impact on biodiversity or conservation within that zone.*

(2) In the Urban zone:

- (a) *development for the purpose of the following is allowed with the consent of the consent authority: advertisements, amusement centres, backpackers' hostels, bed and breakfast establishments, boarding houses, bush fire hazard reduction, child care centres, clubs, community facilities, drains, educational establishments, essential community services, exhibition homes, exhibition villages, family day-care, fast food take-away restaurants, flood mitigation works, general stores, guesthouses, home activities, home businesses, hospitals, hotels, housing, local retail or commercial premises, medical centres, motels, **nursing homes**, parks, places of assembly, places of worship, professional consulting rooms, public buildings, recreation establishments, recreation facilities, regeneration activities, restaurants, retail plant nurseries, roads, service stations, shops.*
- (b) *any other development (except that identified by this plan as exempt or complying) is prohibited.*

The proposed building and associated works seeks the inclusion of a “nursing home” as a form of development which is considered to be permitted with consent in the Urban zone as detailed above because “nursing home” is defined in Schedule 1 Definitions of SREP 30, as follows:

nursing home means accommodation for older people that provides:

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

The proposal is considered to be consistent with the zone objectives.

The proposed development has been assessed against all of the relevant provisions of the SREP 30 as can be seen in the compliance tables at **Appendix Q** of this report.

An amendment to SREP 30 (Amendment No. 3) is currently under consideration by the NSW Department of Planning and Environment (DP&E). This was exhibited from 4 April 2018 until 11 May 2018. The amendment involves:

- Rezone approximately 38.4 ha of land within the Central Precinct from Employment to Urban creating approximately 500 additional dwelling lots; and
- Revise the size and location of Drainage zones to reflect amended urban development boundaries and the progression of the stormwater management strategy for the site; and
- Rezone approximately 1.2 ha of land within the Western Precinct (to the south of the site, below the drainage lot) from Urban to Regional Park.

The proposed amendments do not impact this site or the proposed development.

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

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Housing SEPP) was developed to encourage the development of high quality accommodation which is in keeping with the local neighbourhood for our ageing population and for people who have disabilities. The name of this policy was changed from SEPP (Seniors Living) 2004 to SEPP (Housing for Seniors or People with a Disability) 2004 effective on 12 October 2007.

This DA has been submitted as a “nursing home” under SREP 30. For the purposes of demonstrating consistency this SEE report includes an assessment under the Seniors Housing SEPP up to Clause 40 (as detailed in the CHL legal advice – refer to **Appendix N**) and does not seek approval under the Seniors Housing SEPP.

The provisions of Clause 4A of the Seniors Housing SEPP have been considered which state:

4A Land to which Policy applies—heritage conservation areas in Greater Sydney Region

(1) This Policy does not apply to land in the Greater Sydney Region if an environmental planning instrument identifies the land as being within a heritage conservation area.

(2) This Policy continues to apply to development on land referred to in subclause (1) if:

(a) the relevant development application was lodged before the commencement of this clause, or

(b) the relevant development application was lodged after the commencement of this clause but the development application relies on a site compatibility certificate and the application for that certificate was lodged before the commencement of this clause.

(3) A site compatibility certificate may be issued for land referred to in subclause (1) after the commencement of this clause if the application for that certificate was lodged before the commencement of this clause.

(4) This clause ceases to have effect on 1 July 2020.

The site is not located within a heritage conservation area.

4.3.9.1 Type of Seniors Housing Proposed under the SEPP

The proposed form of development is considered to constitute a “residential care facility” under the terms of the Senior Housing SEPP which states under Clause 3 “Interpretation”:

residential care facility—see clause 11.

The provisions of Clause 11 under the Seniors Housing SEPP state:

11 Residential care facilities

In this Policy, a residential care facility is residential accommodation for seniors or people with a disability that includes:

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

Note. *The Aged Care Act 1997 of the Commonwealth requires residential care facilities to which that Act applies to meet certain requirements.*

The proposed development involves a “residential care facility”, will include all of the items at (a) to (c) and will be licensed in accordance with the *Aged Care Act 1997* (Cth) as administered by the Commonwealth when operational.

4.3.9.2 Permissibility under the SEPP

The provisions of the Senior Housing SEPP outline when a “residential care facility” is permitted, despite the list of permitted uses listed under SREP 30 which also makes the proposed form of development permitted, as follows.

The provisions of Clause 4(1) under the Seniors Housing SEPP are triggered, as “hospitals” are permitted in the “Urban zone” under SREP 30 applicable to the land.

4 Land to which Policy applies

(1) General

This Policy applies to land within New South Wales that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if:

- (a) development for the purpose of any of the following is permitted on the land:*
 - (i) dwelling-houses,*
 - (ii) residential flat buildings,*
 - (iii) hospitals,*
 - (iv) development of a kind identified in respect of land zoned as special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries, or*
- (b) the land is being used for the purposes of an existing registered club.*

The proposed development is to be located on land which has been developed for and permits development for the purposes of “hospitals”, as detailed previously. Therefore as, “hospitals” are permitted in the zone, the subject site can be described as “land zoned primarily for urban purposes” which is consistent with the provisions of Clause 4 of the Senior Housing SEPP.

The intention of the Seniors Housing SEPP is to apply to land which is zoned for urban purposes which the subject site triggers. It is noted that the provisions of Clause 4(1) uses a distinction between “*land zoned for urban purposes or land that adjoins land zoned for urban purposes*”. Notwithstanding that the land adjoins land zoned for urban purposes, the subject site is zoned **for urban purposes** and therefore, the provisions that apply to the category of seniors housing on “land zoned for purposes” will apply. Any provisions applying to seniors housing on “land that adjoins land zoned for urban purposes” will not apply.

The provisions of Clause 4(2) to (11) have also been considered as follows:

(2) Land that is not zoned primarily for urban purposes

For the avoidance of doubt, land that is not zoned primarily for urban purposes includes (but is not limited to) land that is within any of the following zones under another environmental planning instrument:

- (a) a zone that is identified as principally for rural uses,*
- (b) a zone that is identified as principally for urban investigation,*
- (c) a zone that is identified as principally for residential uses on large residential allotments (for example, Zones R5 Large Lot Residential and RU6 Transition referred to in the standard instrument for principal local environmental planning instruments prescribed by the Standard Instrument (Local Environmental Plans) Order 2006).*

The subject site does not trigger the provisions of Clause 4(2) as detailed above.

(2A) For the avoidance of doubt, land that is not zoned primarily for urban purposes includes (but is not limited to) land to which Warringah Local Environmental Plan 2000 applies that is located within locality B2 (Oxford Falls Valley) or C8 (Belrose North) under that plan.

The subject site is not located within the Local Government Area of Warringah Shire Council for which this clause applies to certain lands.

- (1) Nothing in subclause (2) or (2A) operates to make any land not referred to in those subclauses land that is zoned primarily for urban purposes.*

The provisions of this subclause are noted.

(4) Land that adjoins land zoned primarily for urban purposes

For the purposes of this Policy, land that adjoins land that is zoned primarily for urban purposes includes (but is not limited to) land that would directly adjoin land that is zoned primarily for urban purposes but for the presence of a public road to which there is direct vehicular and pedestrian access from the adjoining land.

The above provisions do not apply, see commentary above.

- (5) Application of Policy to land zoned for special uses and existing registered clubs**
For the purposes of this Policy (and for the avoidance of doubt), a consent authority must not treat:

- (a) land on which development for the purposes of special uses is permitted, or*
- (b) land that is being used for the purposes of an existing registered club,*
- as being land zoned primarily for urban purposes unless it is satisfied that most of the land that it adjoins is land zoned for urban purposes.*

The subject site is not zoned for special uses or an existing registered club.

(6) Land to which Policy does not apply

This Policy does not apply to:

- (a) land described in Schedule 1 (Environmentally sensitive land), or*
- (b) land (other than land to which Warringah Local Environmental Plan 2000 applies) that is zoned for industrial purposes, or*
- (c) (Repealed)*
- (d) the land to which Sydney Regional Environmental Plan No 17—Kurnell Peninsula (1989) applies, or*
- (e) the land to which State Environmental Planning Policy (Western Sydney Parklands) 2009 applies.*

The subject site does not trigger any of the above matters.

- (7) Nothing in subclause (6) (a) or Schedule 1 operates to preclude the application of this Policy to land only because:*
 - (a) the land is identified under State Environmental Planning Policy No 71—Coastal Protection, or*
 - (b) in the case of land that is used for the purposes of an existing registered club—the land is described in another environmental planning instrument as:*
 - (i) private open space, or*
 - (ii) open space where dwellings or dwelling-houses are permitted.*

The subject site is not considered to trigger any of the matters under subclause 7.

(8) (Repealed)

(9) Application of Policy to certain land in Sutherland Shire

For the purposes of this Policy (and despite anything to the contrary in subclause (1), (2) or (5)), the land that is shown with heavy edging on the map marked “Map 32 Cronulla Sutherland Leagues Club, Captain Cook Drive” in Schedule 7 to Sutherland Shire Local Environmental Plan 2000 is taken to be land that is zoned primarily for urban purposes.

Note. *Clause 7 (2) (a) of Sutherland Shire Local Environmental Plan 2006 continues the application of Sutherland Shire Local Environmental Plan 2000 to the land referred to in this subclause.*

The site is not located within the Sutherland Shire; therefore, the subclause does not apply.

- (10) For the purposes of this Policy (and despite anything to the contrary in subclause (1) or (4)), any land that adjoins the land referred to in subclause (9) is not to be treated as being land that adjoins land zoned primarily for urban purposes.*

The site is not located within the Sutherland Shire; therefore, the subclause does not apply.

(11) Subclause (6) does not apply in relation to:

- (a) the land referred to in subclause (9), or
- (b) land in Alexander Avenue, Taren Point, being Lot 2, DP 1026203, or
- (c) an application to carry out development for the purposes of a residential care facility on land in any of the following zones under Sutherland Shire Local Environmental Plan 2006:
 - (i) Zone 4—Local Housing,
 - (ii) Zone 5—Multiple Dwelling A,
 - (iii) Zone 6—Multiple Dwelling B,
 - (iv) Zone 7—Mixed Use—Kirrawee,
 - (v) Zone 8—Urban Centre,
 - (vi) Zone 9—Local Centre,
 - (vii) Zone 10—Neighbourhood Centre.

(12), (13) (Repealed)

The site is not located within the Sutherland Shire; therefore, the subclause does not apply.

The following provisions of “Chapter 3 Development for seniors housing” under the Seniors Housing SEPP have also been considered as follows.

Part 1 General

14 Objective of Chapter

The objective of this Chapter is to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age.

Noted. The proposed residential care facility development represents an opportunity for seniors that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age.

15 What Chapter does

This Chapter allows the following development despite the provisions of any other environmental planning instrument if the development is carried out in accordance with this Policy:

- (a) development on land zoned primarily for urban purposes for the purpose of any form of seniors housing, and
- (b) development on land that adjoins land zoned primarily for urban purposes for the purpose of any form of seniors housing consisting of a hostel, a residential care facility or serviced self-care housing.

Due to the trigger under the provisions of Clause 4(1) making the subject site “land zoned primarily for urban purposes”, the proposed development seeks to rely upon the provisions of Clause 15(a) as the land is zoned primarily for urban purposes and the proposed development being a “residential care facility”.

16 Development consent required

Development allowed by this Chapter may be carried out only with the consent of the relevant consent authority unless another environmental planning instrument allows that development without consent.

This DA has been prepared to seek a determination by the District Panel, as the consent authority, due to the Capital Investment Value (CIV) exceeding \$30 million. Refer to **Appendix G** for a CIV prepared by a QS.

17 Development on land adjoining land zoned primarily for urban purposes

(1) Subject to subclause (2), a consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land that adjoins land zoned primarily for urban purposes unless the proposed development is for the purpose of any of the following:

- (a) a hostel,*
- (b) a residential care facility,*
- (c) serviced self-care housing.*

As detailed above, the subject site is land primarily zoned for urban purposes and therefore Clause 17 does not apply to this DA.

(2) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purposes of serviced self-care housing on land that adjoins land zoned primarily for urban purposes unless the consent authority is satisfied that the housing will be provided:

- (a) for people with a disability, or*
- (b) in combination with a residential care facility, or*
- (c) as a retirement village (within the meaning of the Retirement Villages Act 1999).*

Note. Clause 13 (3) defines **serviced self-care housing** as seniors housing that consists of self-contained dwellings where meals, cleaning services, personal care and nursing care are available on site. Clause 42 requires the consent authority to be satisfied that residents of such housing have reasonable access to services. Clause 42 also provides that if services are limited to those provided under Government provided or funded community based care packages, this does not constitute reasonable access to services.

The proposal does not involve “self-care housing” and therefore the provisions do not apply.

18 Restrictions on occupation of seniors housing allowed under this Chapter

(1) Development allowed by this Chapter may be carried out for the accommodation of the following only:

- (a) seniors or people who have a disability,*
- (b) people who live within the same household with seniors or people who have a disability,*
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.*

The applicant understands this requirement and the proposed development is considered to comply.

- (2) A consent authority must not consent to a development application made pursuant to this Chapter unless:
- (a) a condition is imposed by the consent authority to the effect that only the kinds of people referred to in subclause (1) may occupy any accommodation to which the application relates, and
 - (b) the consent authority is satisfied that a restriction as to user will be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, limiting the use of any accommodation to which the application relates to the kinds of people referred to in subclause (1).
- (3) Subclause (2) does not limit the kinds of conditions that may be imposed on a development consent, or allow conditions to be imposed on a development consent otherwise than in accordance with the Act.

The applicant understands that conditions to affect the provisions of Clause 18 of the Seniors Housing SEPP will be imposed on any consent granted.

19 Use of seniors housing in commercial zones

Development allowed by this Chapter for the purposes of seniors housing does not include the use for residential purposes of any part of the ground floor of a building that fronts a street if the building is located on land that is zoned primarily for commercial purposes unless another environmental planning instrument permits the use of all of the building for residential purposes.

The proposed development is not on land located in a commercial zone.

20 (Repealed)

21 Subdivision

Land on which development has been carried out under this Chapter may be subdivided with the consent of the consent authority.

Note. Clause 5 (3) of this Policy ensures that subdivision on the land referred to in clause 4 (9) (b) is permitted by this clause with the consent of the consent authority despite the provisions of clause 65A of the former Sutherland Shire Local Environmental Plan 2000 (which continues to apply to the land by virtue of clause 7 (2) (a) of Sutherland Shire Local Environmental Plan 2006).

Noted.

22 Fire sprinkler systems in residential care facilities for seniors

Development for the purpose of the installation of a fire sprinkler system in a residential care facility for seniors may be carried out with development consent.

Please refer to **Appendix F** for a BCA report assessment of the development with respect to the National Construction Code.

23 Development on land used for the purposes of an existing registered club

- (1) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land that is used for the purposes of an existing registered club unless the consent authority is satisfied that:
- (a) the proposed development provides for appropriate measures to separate the club from the residential areas of the proposed development in order to avoid land use conflicts, and

- (b) *an appropriate protocol will be in place for managing the relationship between the proposed development and the gambling facilities on the site of the club in order to minimise harm associated with the misuse and abuse of gambling activities by residents of the proposed development.*

Note. *The Gaming Machines Act 2001 and the regulations made under that Act provide for gambling harm minimisation measures.*

- (2) *For the purposes of subclause (1) (a), some of the measures to which a consent authority may have regard include (but are not limited to) the following:*

- (a) *any separate pedestrian access points for the club and the residential areas of the proposed development,*
- (b) *any design principles underlying the proposed development aimed at ensuring acceptable noise levels in bedrooms and living areas in the residential areas of the proposed development.*

Note. *See also clause 34 in relation to noise minimisation design principles.*

The proposed development does not trigger the provisions of Clause 23 of the Seniors Housing SEPP as it is not proposed on land used for an existing registered club.

Part 1A Site compatibility certificates

24 Site compatibility certificates required for certain development applications

- (1) *This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) if:*

- (a) *the development is proposed to be carried out on any of the following land to which this Policy applies:*

- (i) *land that adjoins land zoned primarily for urban purposes,*
- (ii) *land that is within a zone that is identified as “special uses” under another environmental planning instrument (other than land on which development for the purposes of hospitals is permitted),*
- (iii) *land that is used for the purposes of an existing registered club, or*

- (b) *the development application involves buildings having a floor space ratio that would require the consent authority to grant consent under clause 45.*

- (1A) *Despite subclause (1), this clause does not apply to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing if the proposed development is permissible with consent on the land concerned under the zoning of another environmental planning instrument.*

- (2) *A consent authority must not consent to a development application to which this clause applies unless the consent authority is satisfied that the Director-General has certified in a current site compatibility certificate that, in the Director-General’s opinion:*

- (a) *the site of the proposed development is suitable for more intensive development, and*
- (b) *development for the purposes of seniors housing of the kind proposed in the development application is compatible with the surrounding environment having regard to (at least) the criteria specified in clause 25 (5) (b).*

Note. *Clause 50 (2A) of the Environmental Planning and Assessment Regulation 2000 requires a development application to which this clause applies to be accompanied by a site compatibility certificate.*

- (3) *Nothing in this clause:*

(a) prevents a consent authority from:

- (i) granting consent to a development application to which this clause applies to carry out development that is on a smaller (but not larger) scale than the kind of development in respect of which a site compatibility certificate was issued, or*
- (ii) refusing to grant consent to a development application to which this clause applies by reference to the consent authority's own assessment of the compatibility of the proposed development with the surrounding environment, or*
- (b) otherwise limits the matters to which a consent authority may or must have regard (or of which a consent authority must be satisfied under another provision of this Policy) in determining a development application to which this clause applies.*

Note. *Nothing in this clause affects a consent authority's duty to give effect to non-discretionary standards set out in this Policy. See, for example, clauses 48, 49 and 50.*

(4) (Repealed)

The proposed development does not fall within the categories of development identified in clause 24(1)(a)(i) – (iii) above and therefore, no site compatibility certificate is required under the provisions of the Seniors Housing SEPP.

It is not the intention of the Seniors Housing SEPP to require a site compatibility certificate in all instances, for example, a “nursing home” proposed in an urban zone, as is the case here. Rather, a site compatibility certificate will be required in circumstances where a senior's development is located on land that:

- Is zoned for special uses (other than land for which a hospital is permitted);
- Is land that is used for an existing registered club; or
- Is land that adjoins land that is zoned primarily for urban purposes.

The site does not fall into any of these categories.

25 Application for site compatibility certificate

(1) An application for a site compatibility certificate for the purposes of clause 24 may be made to the Director-General:

- (a) by the owner of the land on which the development is proposed to be carried out, or*
- (b) by any other person, with the consent of the owner of that land.*

(2) An application must be:

- (a) in writing, and*
- (b) in the form (if any) approved by the Director-General from time to time, and*
- (c) accompanied by such documents and information as the Director-General may require.*

Note. *Clause 262A of the Environmental Planning and Assessment Regulation 2000 provides for the maximum fee for an application for a site compatibility certificate.*

*(3) Subject to subclause (4) (b), the Director-General must provide a copy of the application to the General Manager of the council for the area in which the development concerned is proposed to be carried out (the **relevant General Manager**) within the period of 7 days after the application is made.*

(4) Subject to subclause (5), the Director-General:

- (a) may determine the application by issuing a certificate or refusing to do so, and*
- (b) if the Director-General refuses to issue a certificate at any time within the period of 7 days after the application is made—is not required to comply with subclause (3).*
- (5) The Director-General must not issue a site compatibility certificate unless the Director-General:*
 - (a) has taken into account the written comments (if any) concerning the consistency of the proposed development with the criteria referred to in paragraph (b) that are received from the relevant General Manager within 21 days after the application for the certificate was made, and*
 - (b) is of the opinion that the proposed development is compatible with the surrounding land uses having regard to (at least) the following criteria:*
 - (i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,*
 - (ii) the impact that the proposed development is likely to have on the uses that, in the opinion of the Director-General, are likely to be the future uses of that land,*
 - (iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,*
 - (iv) in the case of applications in relation to land that is zoned open space or special uses—the impact that the proposed development is likely to have on the provision of land for open space and special uses in the vicinity of the development,*
 - (v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development,*
 - (vi) if the development may involve the clearing of native vegetation that is subject to the requirements of section 12 of the Native Vegetation Act 2003—the impact that the proposed development is likely to have on the conservation and management of native vegetation.*
- (6) Without limiting subclause (4) (a), the Director-General may refuse to issue a certificate if the Director-General considers that the development is likely to have an adverse effect on the environment.*
- (7) A certificate may certify that the development to which it relates is compatible with the surrounding land uses only if it satisfies certain requirements specified in the certificate.*
- (8) The Director-General must, if it is reasonably practicable to do so, determine an application within 35 days after it is lodged.*
- (9) A certificate remains current for a period of 24 months after the date on which it is issued by the Director-General.*
- (10) The provisions of subclauses (3) and (5) (a) do not apply in relation to the determination of an application for a site compatibility certificate if the Director-General has delegated the function of determining the application to the council for the area in which the development concerned is proposed to be carried out.*

Note. Section 23 of the Act enables the Director-General to delegate to a council any of the functions of the Director-General imposed or conferred by or under the Act or any other Act.

The provisions of Clause 25 of the Seniors Housing SEPP are not triggered by the proposed development of the subject site as no compatibility site certificate is required.

Part 2 Site-related requirements

Note. Information and assessment guidelines may be issued by the Department of Planning from time to time to provide assistance to councils in assessing locations and the provision of services.

26 Location and access to facilities

(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to:

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

(2) Access complies with this clause if:

(a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable:

- (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,
- (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,
- (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time, or

(b) in the case of a proposed development on land in a local government area within the Sydney Statistical Division—there is a public transport service available to the residents who will occupy the proposed development:

- (i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and
- (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and
- (iii) that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive),

and the gradient along the pathway from the site to the public transport services (and from the public transport services to the facilities and services referred to in subclause (1)) complies with subclause (3), or

(c) in the case of a proposed development on land in a local government area that is not within the Sydney Statistical Division—there is a transport service available to the residents who will occupy the proposed development:

- (i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and
- (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and
- (iii) that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive),

and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).

Note. Part 5 contains special provisions concerning the granting of consent to development applications made pursuant to this Chapter to carry out development for the purpose of certain seniors housing on land adjoining land zoned primarily for urban purposes. These provisions include provisions relating to transport services.

(3) *For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable:*

(i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,

(ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,

(iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.

(4) *For the purposes of subclause (2):*

*(a) a **suitable access pathway** is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and*

(b) distances that are specified for the purposes of that subclause are to be measured by reference to the length of any such pathway.

(5) *In this clause:*

bank service provider *means any bank, credit union or building society or any post office that provides banking services.*

The provisions of Clause 26 are noted and have been considered carefully by the applicant when undertaking a site selection process.

The Social Impact Comment at **Appendix O** includes information to assist with the evaluation with respect to the criteria detailed at Clause 26. The site is located opposite the Jordan Springs Village which includes services and facilities as detailed in Clause 26(1).

The proposed development is located on land which is less than 400m away from the facilities specified in Clause 26(1)(a) to (c) for the forward journey to all of the range of the facilities and services in Jordan Springs and includes access to the bus stop on Jordan Springs on the opposite of the site.

The proposed development complies with the objectives of this clause and provides access to facilities by a superior means to those identified in clause 26(2).

For example, CHL as the managers of the proposed residential care facility seeks to provide superior services on-site which will include:

- Physiotherapy,
- Hairdressing salon;
- Cafe;
- Strategically located lounge and dining areas for residents to enjoy outlooks to the landscaped gardens;
- Nurse stations at each residential level;
- On-site facilities for provision of catering with full commercial kitchen and refrigeration/store rooms;
- On-site linen services;
- Plant areas;
- Storage areas;
- Staff amenities;
- Lift access to each level of the building for residents with a separate service lift access for “back-of-house” functions;

With respect to the provisions of Clause 26, should CHL be successful in receiving Residential Aged Care Places in the upcoming ACAR, it is anticipated that residents will generally be from the surrounding localities and local government area. Given this, residents will be able to continue to access their existing local treating doctor and therefore will not place any greater burden on existing medical services in the area.

The NSW Land and Environment Court (the Court) considered whether the provisions of Clause 26 act as a prohibition or whether they are a development standard in the recent case of *Principal Healthcare Finance Pty Ltd v Council of the City of Ryde* [2016] NSWLEC 153.

This matter involved an appeal of a decision of the Sydney East Region Joint Regional Planning Panel to refuse a development application prepared by the applicant Principal Healthcare Finance Pty Ltd. The development application sought approval to demolish an existing nursing home facility with 72 beds and construct a new ‘high care’ residential aged care facility with 141 beds in West Ryde. On 8 June 2016, Pain J of the Land and Environment Court of NSW ordered that the Court independently deal with the question of whether clause 26 of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability)* 2004 (SEPP HSPD) is a development standard amenable to clause 4.6 of the *Ryde Local Environmental Plan* 2014 or a prohibition, prior to the commencement of the main hearing. This decision considers that separate question.

In its submission to the Court, the applicant argued that clause 26 of the Seniors Housing SEPP is a development standard, as distinct from a prohibition. The applicant submitted that the matters set out in the Seniors Housing SEPP were not essential preconditions, but rather a set of standards relating to how the permissible use (that being seniors living, or the use of the site as a residential care facility) is to be carried out.

The Court considered a number of clauses in the Seniors Housing SEPP and reiterated clause 26 should be considered in the context of the instrument as a whole. The Court applied the ‘two-step’ approach as outlined in the case of *Strathfield Municipal Council v Poynting* (2001) 116 LGERA 319 which required firstly, a consideration of whether the proposed development is prohibited under any circumstances pursuant to clause 26 of Seniors Housing SEPP, and secondly, if it is not prohibited, a consideration of whether clause 26 of Seniors Housing SEPP specifies a requirement or imposes a standard in relation to an aspect of the proposed development.

In relation to the first step, the Court confirmed that despite clause 26 of the Seniors Housing SEPP having the flavour of a prohibition, it was not so when read in the context of the whole instrument. It was noted that the Seniors Housing SEPP does not act to prohibit developments, but rather permits them when certain criteria are met.

The Court also found that the criteria in clause 26 of the Seniors Housing SEPP are not essential conditions, and to consider them so would defeat the purpose of the Seniors Housing SEPP by discouraging the establishment of RACF as a type of ‘seniors housing’ facilities. The definition of ‘seniors housing’ contained in clause 10 of the Seniors Housing SEPP as detailed previously in this SEE report, covers a wide range of developments, from self-contained dwellings to residential aged care facilities of which a “nursing home” is a type, each established for residents with different needs.

With this in mind, the Court found that the criteria in clause 26 of the Seniors Housing SEPP does not necessarily cater for those who would reside in the applicant’s proposed “nursing home”, i.e. frail persons not capable of independent living. It should be noted that the applicant in this case, CHL proposes a “nursing home” which will cater for frail persons who are not capable of independent living, and thus is consistent with the first step.

With respect to the second step, the Court highlighted that the definition of ‘development standards’ in section 4 of the *Environmental Planning and Assessment Act 1979* (NSW) essentially has three elements. Firstly, the relevant provision must be in relation to the carrying out of development. Secondly, the relevant provision must specify requirements or set standards in respect of an aspect of the development. In relation to these elements, the Court indicated that the empirical criteria contained in clause 26 of the Seniors Housing SEPP (i.e. the gradient measurements and minimum access distance of 400m), both specify requirements and set standards for the proposed development. According to the Court, the third element was also satisfied, adding further comfort. The Court therefore determined that clause 26 of Seniors Housing SEPP both falls within the definition of ‘development standard’ and confirmed that it meets the second step in the two-step test.

27 Bush fire prone land

(1) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land identified on a bush fire prone land map certified under section 146 of the Act as “Bush fire prone land—vegetation category 1”, “Bush fire prone land—vegetation category 2” or “Bush fire prone land—vegetation buffer” unless the consent authority is satisfied that the development complies with the requirements of the document titled Planning for Bush Fire Protection, ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006.

- (2) A consent authority, in determining a development application made pursuant to this Chapter to carry out development on land in the vicinity of land identified on a bush fire prone land map certified under section 146 of the Act as “Bush fire prone land—vegetation category 1”, “Bush fire prone land—vegetation category 2” or “Bush fire prone land—vegetation buffer”, must take into consideration the general location of the proposed development, the means of access to and egress from the general location and other relevant matters, including the following:
- (a) the size of the existing population within the locality,
 - (b) age groups within that population and the number of persons within those age groups,
 - (c) the number of hospitals and other facilities providing care to the residents of the facilities within the locality, and the number of beds within those hospitals and facilities,
 - (d) the number of schools within the locality and the number of students at those schools,
 - (e) existing development within the locality that has been carried out under this Policy or State Environmental Planning Policy No 5—Housing for Older People or People with a Disability,
 - (f) the road network within the locality and the capacity of the road network to cater for traffic to and from existing development if there were a need to evacuate persons from the locality in the event of a bush fire,
 - (g) the adequacy of access to and from the site of the proposed development for emergency response vehicles,
 - (h) the nature, extent and adequacy of bush fire emergency procedures that are able to be applied to the proposed development and its site,
 - (i) the requirements of New South Wales Fire Brigades.
- (3) In exercising its functions under subclause (1) or (2), a consent authority must consult with the NSW Rural Fire Service and have regard to its comments.

The provisions of Clause 27 of the Seniors Housing SEPP are triggered by the proposed development of the subject site and a bushfire assessment report has been prepared to guide the proposed development included at **Appendix K**.

28 Water and sewer

- (1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.
- (2) If the water and sewerage services referred to in subclause (1) will be provided by a person other than the consent authority, the consent authority must consider the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure. In locations where reticulated services cannot be made available, the consent authority must satisfy all relevant regulators that the provision of water and sewerage infrastructure, including environmental and operational considerations, are satisfactory for the proposed development.

The provisions of Clause 28 of the Seniors Housing SEPP have been considered as part of this DA and the land currently has available sewer and water services for the site and its development for a “nursing home” will require these services to be augmented.

29 Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply

- (1) This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) to which clause 24 does not apply.

Note. Clause 24 (1) sets out the development applications to which that clause applies.

- (2) A consent authority, in determining a development application to which this clause applies, must take into consideration the criteria referred to in clause 25 (5) (b) (i), (iii) and (v).
- (3) Nothing in this clause limits the matters to which a consent authority may or must have regard (or of which a consent authority must be satisfied under another provision of this Policy) in determining a development application to which this clause applies.

The provisions of Clause 29 of the Seniors Housing SEPP have been considered as part of the design development for this DA and a report on the site analysis, its context and the design evolution has been undertaken by Young and Metcalf as the lead designers for the development and this can be found at **Appendix B**.

Part 3 Design requirements

Division 1 General

30 Site analysis

- (1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the applicant has taken into account a site analysis prepared by the applicant in accordance with this clause.
- (2) A site analysis must:
 - (a) contain information about the site and its surrounds as described in subclauses (3) and (4), and
 - (b) be accompanied by a written statement (supported by plans including drawings of sections and elevations and, in the case of proposed development on land adjoining land zoned primarily for urban purposes, an aerial photograph of the site):
 - (i) explaining how the design of the proposed development has regard to the site analysis, and
 - (ii) explaining how the design of the proposed development has regard to the design principles set out in Division 2.

The documentation for this DA includes a site survey (refer to **Appendix A**) which addresses a number of the items listed under subclause 3, including:

- (a) **Site dimensions:**
 - length
 - width
- (b) **Topography:**
 - spot levels and/or contour
 - north point
 - natural drainage
 - any contaminated soils or filled areas
- (c) **Services:**
 - easements
 - connections for drainage and utility services

(d) Existing vegetation:

location

height

spread of established trees

species

...

(f) Location of:

buildings and other structures

heritage features and items including archaeology

fences

property boundaries

pedestrian and vehicle access

(g) Views to and from the site

(h) Overshadowing by neighbouring structures

The provisions of Clause 30(3) as follows:

(e) Micro climates:

orientation

prevailing winds

The micro-climates of the site have been shown in the architectural drawing included at **Appendix B**, which is a Site Analysis Plan which includes prevailing winds, site's orientation in relation to solar access and the outlook. In addition, the site context and design principles which have been analysed to form the basis of the design as submitted, have been summarised in the Architectural Design Statement prepared by Young and Metcalf (refer to **Appendix B**) which also suitably addresses the items listed in subclause 3, above.

The provisions of Clause 30(4) have been considered, which state:

(4) The following information about the surrounds of a site is to be identified in a site analysis:

(a) Neighbouring buildings:

location

height

use

balconies on adjacent properties

pedestrian and vehicle access to adjacent properties

(b) Privacy:

adjoining private open spaces

living room windows overlooking site

location of any facing doors and/or windows

(c) Walls built to the site's boundary:

location

height

materials

(d) Difference in levels between the site and adjacent properties at their boundaries

(e) Views and solar access enjoyed by neighbouring properties

(f) Major trees on adjacent properties

(g) Street frontage features:

poles

trees

kerb crossovers

bus stops

other services

(h) The built form and character of adjacent development (including buildings opposite on both sides of the street(s) fronted):

architectural character

front fencing

garden styles

(i) Heritage features of surrounding locality and landscape

(j) Direction and distance to local facilities:

local shops

schools

public transport

recreation and community facilities

(k) Public open space:

location

use

(l) Adjoining bushland or environmentally sensitive land

(m) Sources of nuisance:

flight paths

noisy roads or significant noise sources

polluting operations

(n) Adjoining land uses and activities (such as agricultural activities)

Section 2 of this SEE report includes information about neighbouring buildings, privacy, location of public open space, the existing built form and character of the area, adjoining land uses have been identified and discussed, street frontage features identified, differences in levels including site topography and drainage, direction to local services, location of major trees and the height of buildings in the immediate area surrounding the subject site.

The site does not contain any heritage items, is not located in the vicinity of any heritage items and is not located in a heritage conservation area. The land is not located near any adjoining bushland or land identified as environmental sensitive. The subject site is not identified under any contour of the ANEF map for Sydney Airport as published to December 2016 and does not have frontage to a noise source. An acoustic assessment accompanies this DA and can be found at **Appendix P**.

The architectural design statement by Young and Metcalf at **Appendix B** explains how the design has had regard to the site analysis, established design principles and how the design has had regard to the design principles established. As such, the provisions of Clause 30 have been suitably addressed.

31 Design of in-fill self-care housing

In determining a development application made pursuant to this Chapter to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration) the provisions of the Seniors Living Policy: Urban Design Guideline for Infill Development published by the Department of Infrastructure, Planning and Natural Resources in March 2004.

The provisions of Clause 31 of the Seniors Housing SEPP are not triggered by the proposed development of the subject site as it does not involve an in-fill self-care housing development. Therefore, so too the provisions of the “Seniors Living Policy: Urban Design Guideline for Infill Development” do not apply.

32 Design of residential development

A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2.

Noted.

Division 2 Design principles

33 Neighbourhood amenity and streetscape

The proposed development should:

- (a) recognise the desirable elements of the location’s current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and*
- (b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and*
- (c) maintain reasonable neighbourhood amenity and appropriate residential character by:*
 - (i) providing building setbacks to reduce bulk and overshadowing, and*
 - (ii) using building form and siting that relates to the site’s land form, and*
 - (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and*
 - (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and*

- (d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and*
- (e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and*
- (f) retain, wherever reasonable, major existing trees, and*
- (g) be designed so that no building is constructed in a riparian zone.*

The site, context analysis and design report at **Appendix B** have recognised the desirable elements of the location and demonstrate that the design (refer to reduced drawing set at **Appendix B**) will maintain a reasonable neighbourhood amenity and provide for an appropriate character when complete, in that the design includes:

- setbacks to reduce bulk and minimise overshadowing, refer to the shadow diagrams at **Appendix B**,
- the urban form and siting relate well to the land form and site topography in that 5 storeys will be viewed from Jordan Springs Boulevard and Lakeside Parade which is consistent with building scale permitted for multi unit development,
- the building heights at the street frontages are compatible with the scale of building heights on adjoining properties in the Jordan Springs Village in the streetscape,
- the front setback to each street frontage, are setback in sympathy with the setback of the existing development on the site with articulation to Jordan Springs Boulevard and Lakeside Parade,
- where possible new trees around the perimeter of the built form and in the street/public domain are proposed (refer to the arborist report at **Appendix E**),
- will provide for additional plantings in the streetscapes and courtyard areas inclusive of formal and informal landscaping (refer to the landscape concept drawing and report at **Appendix E**), and
- given the proposed setbacks, height and siting will minimise adverse impacts on adjoining properties.

34 Visual and acoustic privacy

The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:

- (a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and*
- (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.*

Note. *The Australian and New Zealand Standard entitled AS/NZS 2107–2000, Acoustics—Recommended design sound levels and reverberation times for building interiors and the Australian Standard entitled AS 3671—1989, Acoustics—Road traffic noise intrusion—Building siting and construction, published by Standards Australia, should be referred to in establishing acceptable noise levels.*

An acoustic assessment has been undertaken and submitted as part of this DA which can be found at **Appendix P**. The design seeks to ensure the acoustic privacy of adjoining properties by not locating plant in areas which would impact adjoining properties.

35 Solar access and design for climate

The proposed development should:

- (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and*
- (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.*

Note. *AMCORD: A National Resource Document for Residential Development, 1995, may be referred to in establishing adequate solar access and dwelling orientation appropriate to the climatic conditions.*

The design has been sited so as to minimise its shadow impact on adjoining properties and ensure adequate solar access and daylight to the main living areas and private open spaces of neighbours in the vicinity of the development. The shadow diagrams contained with **Appendix B** demonstrates the shadow impact at 9am, 12pm and 3pm of the shortest day of the year being 21 June and the impact on the properties.

36 Stormwater

The proposed development should:

- (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and*
- (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.*

The design will control and direct stormwater runoff so as it does not impact on adjoining properties and will implement measures for stormwater management as identified under the Penrith Development Control Plan. Refer to the stormwater management report and concept plans at **Appendix H**.

37 Crime prevention

The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:

- (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and*
- (b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and*
- (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.*

CHL intends to implement a management regime similar to their existing facilities so as to provide appropriate personal property security for their residents and visitors. In addition, the design (which does not involve dwellings but rather room accommodation) has implemented Safety by Design with an awareness of Crime Prevention Through Environmental Design (CPTED) principles which are discussed in more details at Section 4 of this report.

38 Accessibility

The proposed development should:

- (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and*
- (b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.*

The design seeks to ensure the development provides for accessible outcomes. The Australian Standard for accessibility is a requirement under the BCA, refer to the BCA and Access report at **Appendix F**, and accordingly, the provisions of Clause 38 have been satisfied.

39 Waste management

The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.

Waste management plan can be found at **Appendix D**.

As detailed in the CHL legal advice in **Appendix N**, which states:

However, it is important to have regard to sub-clause 40(1) of the SEPP which provides that:

*A consent authority must not consent to a development application **made pursuant to this Chapter** unless the proposed development complies with the standards specified in this clause. [our emphasis]*

The relevant Chapter is Chapter 3 of the SEPP, which relevantly allows certain development 'despite the provisions of any other environmental planning instrument if the development is carried out in accordance with' the SEPP.⁷

Therefore, the following is provided for information purposes only, as this DA is not made pursuant to this chapter of the Seniors Housing SEPP.

Part 4 Development standards to be complied with

Division 1 General

40 Development standards—minimum sizes and building height

(1) General

A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.

(2) Site size

The size of the site must be at least 1,000 square metres.

(3) Site frontage

The site frontage must be at least 20 metres wide measured at the building line.

(4) Height in zones where residential flat buildings are not permitted
If the development is proposed in a residential zone where residential flat buildings are not permitted:

(a) the height of all buildings in the proposed development must be 8 metres or less, and

Note. Development consent for development for the purposes of seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height. See clauses 48 (a), 49 (a) and 50 (a).

(b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and

Note. The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.

(c) a building located in the rear 25% area of the site must not exceed 1 storey in height.

The subject site on which the proposed “nursing home” is to be located has a total site area of approximately 5,003 square metres and therefore complies with Clause 40(2) above.

The subject site has frontages greater than 20m and therefore complies with Clause 40(3) above.

The height of the proposed development exceeds 8m, and is located where residential flat buildings are permitted, however this DA is not made pursuant to this chapter of the Seniors Housing SEPP.

(5) Development applications to which clause does not apply

Subclauses (2), (3) and (4) (c) do not apply to a development application made by any of the following:

(a) the Department of Housing,

(b) any other social housing provider.

The development is not proposed by the NSW Department of Housing.

CHL is a Commonwealth registered not-for-profit organisation that provides beds to tenants, including concessional places as a “social housing provider”. A non-profit organisation is an organisation that is not operating for the profit or gain of its individual members. Any profit made by the organisation goes back into the operation of the organisation to carry out its purposes and is not distributed to any of its members. It is submitted that this is the case with CHL.

CHL Jordan Springs will remain the property of CHL and will be made available to residents for a fee. Thus, CHL provides residential rentals to its tenants. CHL is a Commonwealth registered not-for-profit organisation that provides residential rentals to tenants, and this includes concessional tenants as a “social housing provider”. Therefore, CHL are a “social housing provider” and Clauses 40(2), (3) and (4)(c) do not apply to the project.

Division 2 Residential care facilities—standards concerning accessibility and useability

Note. Development standards concerning accessibility and useability for residential care facilities are not specified in this Policy. For relevant standards, see the Commonwealth aged care accreditation standards and the Building Code of Australia.

Noted. The proposed development has been designed with the accessibility requirements under the Commonwealth licensing provisions and the BCA (now known as the National Construction Code (NCC)) refer to the report contained at **Appendix F**.

Part 7 Development standards that cannot be used as grounds to refuse consent

Division 1 General

46 Inter-relationship of Part with design principles in Part 3

- (1) *Nothing in this Part permits the granting of consent to a development application made pursuant to this Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.*

Note. *It is considered possible to achieve good design and achieve density ratios set out in Division 2. Good design is critical to meriting these density ratios.*

- (2) *For the avoidance of doubt, nothing in this Part limits the matters to which the Director-General may have regard in refusing to issue a site compatibility certificate.*

The site context analysis and design report prepared by the designers from Young and Metcalf can be found at **Appendix B** adequately demonstrate that the proposed development has been designed to have adequate regard to the principles set out in Division 2 of Part 3 of the Seniors Housing SEPP.

47 Part does not apply to certain development applications relating to heritage affected land

Nothing in this Part applies in relation to the granting of consent to a development application made pursuant to this Chapter for the carrying out of development on land to which an interim heritage order or listing on the State Heritage Register under the Heritage Act 1977 applies.

No heritage items are located on the site or adjoining the site in the immediate vicinity and therefore Clause 47 is not relevant.

Division 2 Residential care facilities

48 Standards that cannot be used to refuse development consent for residential care facilities

*A consent authority must not refuse consent to a development application **made pursuant to this Chapter for the carrying out of development for the purpose of a residential care facility** on any of the following grounds:*

- (a) **building height:** if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys), or*
- (b) **density and scale:** if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less,*
- (c) **landscaped area:** if a minimum of 25 square metres of landscaped area per residential care facility bed is provided,*
- (d) **parking for residents and visitors:** if at least the following is provided:*
 - (i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and*
 - (ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and*
 - (iii) 1 parking space suitable for an ambulance.*

Note. *The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant development consent.*

This DA is not made pursuant to this chapter of the Seniors Housing SEPP and therefore, the provisions of Clause 48 do not apply. Refer to the legal advice included at **Appendix N**.

The FSR exceeds 1:1 but is consistent with the desired future character for a “nursing home” under SREP 30 and the associated Precinct Plan and Development Control Strategy. Landscaped area is some 1,433 square metres which is less than 3,600 square metres but is located immediately opposite local open space and within 100m of the regional open space. Parking for the proposed development involves 30 car parking spaces within the undercroft parking area inclusive of disabled parking and ambulance if required to attend the site, which have been assessed as complying as a minimum of 30 spaces are required (refer to the report at **Appendix C**).

2 Aims of Policy

- (1) This Policy aims to encourage the provision of housing (including residential care facilities) that will:*
 - (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
 - (b) make efficient use of existing infrastructure and services, and*
 - (c) be of good design.*
- (2) These aims will be achieved by:*
 - (a) setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and*
 - (b) setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and*
 - (c) ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes.*

Based on the assessment of the relevant provision of the Senior Housing SEPP as undertaken within this SEE report, it is considered that the development for the purposes of a “nursing home” is suitable for the site and has been designed so as to ensure the correct fit for the land and locality. As such, it is considered that the proposed development is consistent with the aims of the Senior Housing SEPP.

4.3.10 Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River (No.2 - 1997)

Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2-1997) (SREP) applies to certain land in the Greater Metropolitan Region that is within the following local government areas: Baulkham Hills, Blacktown, Blue Mountains, Camden, Campbelltown, Fairfield, Gosford, Hawkesbury, Hornsby, Ku-ring-gai, Liverpool, Penrith, Pittwater, Warringah, Wollondilly. The aim of this plan is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. It is considered that Council would have had regard to the planning strategies detailed under the SREP at the time of preparation of PLEP 2010 amendment which rezoned this urban release area.

The proposed development is considered to be consistent with the aims and controls of the SREP, the DA includes environmental measures to mitigate the impacts of the proposed development in terms of its stormwater runoff as detailed in the report included at **Appendix H**.

4.3.11 State Environmental Planning Policy (State and Regional Development) 2011

State Environmental Planning Policy (State and Regional Development) 2011 applies to the project.

The Planning Panels determine the following types of development applications (DAs) and modification applications:

- *Regional development, as outlined in Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011*
 - *development with a capital investment value (CIV)* over \$30 million*
 - *development with a CIV* over \$5 million which is:*
 - *council related*
 - *lodged by or on behalf of the Crown (State of NSW)*
 - *private infrastructure and community facilities*
 - *eco-tourist facilities*
 - *extractive industries, waste facilities and marinas that are designated development,*
 - *certain coastal subdivisions*
 - *development with a CIV* between \$10 million and \$30 million which is referred to the Planning Panel by the applicant after 120 days*

** Capital investment value (CIV) is calculated at the time of lodgement of the DA for the purpose of determining whether an application should go to a Planning Panel - refer to Planning Circular PS 10-008.*

Clause 20 of the State Environmental Planning Policy (State and Regional Development) 2011 and Cl4.5(b) of the *Environmental Planning and Assessment Act 1979*. In this regard, the Capital Investment Value (CIV) refer to **Appendix G**, is greater than \$30 mil (ex GST) being \$32,708,304 and therefore does trigger State Environmental Planning Policy (State and Regional Development) 2011, the district panel is the determination authority under this SEPP.

4.3.12 State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (“Infrastructure SEPP”) aims to provide for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing. It assists the NSW Government, local councils and the communities they support by simplifying the process for providing infrastructure in areas such as education, hospitals, roads, railways, water and electricity.

4.3.12.1 Clause 45 Electricity Transmission Considerations

Clause 45 has been considered by the applicant in the preparation of this DA, which states:

45 Determination of development applications—other development

(1) This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following:

(a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,

(b) development carried out:

(i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or

(ii) immediately adjacent to an electricity substation, or

(iii) within 5m of an exposed overhead electricity power line,

(c) installation of a swimming pool any part of which is:

(i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or

(ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,

(d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.

(2) Before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must:

(a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and

(b) take into consideration any response to the notice that is received within 21 days after the notice is given.

The applicant’s architects at Young and Metcalf have liaised with a level 3 accredited energy consultant, who conducted an electrical demand assessment and indicated that the size and nature of the project requires the inclusion of a substation within the development. The design and specifications shown in the architectural drawings contained at **Appendix B** include a new substation to meet the demand of the proposed development.

4.3.12.2 Clause 101 – Development with frontage to classified road

Clause 101 of *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) specifies the following requirements for development with a frontage to a classified road as identified in the Roads and Maritime Services (RMS) *Schedule of Classified Roads and State & Regional Roads* ('the Schedule').

Clause 101 of the ISEPP states as follows:

101 Development with frontage to classified road

(1) *The objectives of this clause are:*

- (a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

(2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*

- (a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The subject site does not have frontage to an identified classified road. It is noted that the proposed development does not proposed any vehicular access from a classified road and therefore the proposed development satisfies subclause 2(a) above. As such, the proposed development is compliant with **Clause 101** of the ISEPP.

4.3.12.3 Clause 104 Traffic-generating development

Clause 104 of the ISEPP specifies the following requirements for development that falls within the criteria in Schedule 3 Column 3, including parking with a size or capacity, where Clause 104 states:

104 Traffic-generating development

- (1) *This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:*
 - (a) *new premises of the relevant size or capacity, or*
 - (b) *an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*
- (2) *In this clause, "relevant size or capacity" means:*
 - (a) *in relation to development on a site that has direct vehicular or pedestrian access to any road-the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or*
 - (b) *in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection-the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.*
- (3) *Before determining a development application for development to which this clause applies, the consent authority must:*
 - (a) *give written notice of the application to the RTA within 7 days after the application is made, and*
 - (b) *take into consideration:*
 - (i) *any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and*
 - (ii) *the accessibility of the site concerned, including:*
 - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
 - (iii) *any potential traffic safety, road congestion or parking implications of the development.*
- (4) *The consent authority must give the RTA a copy of the determination of the application within 7 days after the determination is made.*

Clause 104 of the ISEPP 2007 specifies the following requirements for development that falls within the criteria in Schedule 3 of the SEPP including “industry”:

- (3) *Before determining a development application for development to which this clause applies, the consent authority must:*
 - (a) *give written notice of the application to the RTA within 7 days after the application is made, and*
 - (b) *take into consideration:*
 - (i) *any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and*
 - (ii) *the accessibility of the site concerned, including:*
 - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
 - (iii) *any potential traffic safety, road congestion or parking implications of the development.*

Council may decide to notify and take into account any submission by the RMS on the DA in accordance with **Clause 104(3)** of the ISEPP.

A Traffic and Parking Impact Assessment prepared by CBRK is included at **Appendix C**.

The proposed development will not result in an adverse impact to the efficiency of the classified road, will not result in unsafe ingress or egress movements, and will not result in unacceptable traffic and parking implications under the ISEPP. The number of car parking spaces on the site is sufficient for the proposed development in accordance with the car parking rates required by a nursing home.

The District Panel as the consent authority does not need to notify and take into account any submission by the RMS in accordance with clause 104(3) of the ISEPP 2007. The accessibility of the site and potential traffic and parking implications of the proposed development are addressed below in **Section 4.8.6** of this SEE and in a Traffic impact assessment report at **Appendix C** in satisfaction of clause 104(3)(b) of SEPP (Infrastructure) 2007.

4.3.13 State Environmental Planning Policy No 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) relates to the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed. The policy makes remediation permissible across the State, defines when consent is required, requires all remediation to comply with standards, ensures land is investigated if contamination is suspected and requires councils to be notified of all remediation proposals. The *Managing Land Contamination: Planning Guidelines* were prepared to assist councils and developers.

Clause 7 of SEPP 55 states as follows:

7 Contamination and remediation to be considered in determining development application

(1) A consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

(4) The land concerned is:

- (a) land that is within an investigation area,
- (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,
- (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:
 - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and
 - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

To address the provision of Clause 7 of SEPP 55 a site contamination report is included in **Appendix I** and a Site Audit Statement which indicates the site is clean. As such, the site is suitable for the project under SEPP 55.

4.3.14 State Environmental Planning Policy No. 64 – Advertising and signage

State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64) aims to ensure that signage is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.

The SEPP was amended in August 2007 to permit and regulate advertisements on road and railway corridors and provide appropriate design and safety controls for these advertisements. Complementing the provisions of SEPP 64 is the *Transport Corridor Outdoor Advertising and Signage Guidelines* (DP&E November 2017) which outlines the best practice for the planning and design of outdoor advertisements in transport corridors such as along or adjacent to classified roads, transitways, railway corridors and rail overpasses.

The proposed nursing home building will identify the name and logo of the CHL for the building, which will likely be considered to be building identification signs under SEPP 64, which states:

building identification sign means a sign that identifies or names a building and that may include the name of a building, the street name and number of a building, and a logo or other symbol but does not include general advertising of products, goods or services.

Note.

Building identification signs are a type of signage—see the definition of that term in this Dictionary.

As such the provisions of Part 3 of SEPP 64 do not apply to the proposed signage by virtue of Clause 9 which states:

9 Advertisements to which this Part applies

This Part applies to all signage to which this Policy applies, other than the following:

- (a) business identification signs,*
- (b) building identification signs,*
- (c) signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it,*
- (d) signage on vehicles.*

Therefore, the DA does not require concurrence from the RMS for any signage proposed under Part 3 of SEPP 64. Details of the location and style of the proposed building signage is not available but will be of a high-quality design and finish that will incorporate elements of the proposed nursing home building on the site thus making it compatible with the amenity and visual character of the locality and effectively communicates the name of the businesses on site. Therefore, the signage is consistent with the aims of the SEPP as set out in Clause (3)(1)(a). The proposed development is consistent with the assessment criteria included in Schedule 1 of SEPP 64. An assessment of the proposal against these criteria is provided in the following table.

Table 4: Assessment of proposed signage against Schedule 1 of SEPP 64

Assessment Criteria	Proposed Signage
Character of the area	<p>The proposed signage is compatible with the existing and desired future character of the area as the subject site is located in an area which is characterised by a shopping centre on Jordan Springs Boulevard and residential uses. The proposed development seeks to provide pylon and flush wall signs to display business identification signage for CHL on the proposed building on the subject site. Furthermore, the proposed signage will be of a high quality finish and will complement the existing signage located within the surrounding area and the materials and colours used for the proposed building. The proposed signage will provide visual interest and is consistent with the bulk and scale of other pylon and flush wall signs used for similar purposes.</p>
Special areas	<p>It is considered that the proposed signage will not detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas.</p> <p>The subject site is located in an established urban area, and as such does not contain any environmentally sensitive areas. The residential areas west and east of the site will not be impacted by the proposal given the location of the building will provide buffering and no signage faces directly towards a residential property.</p>
Views and Vistas	<p>The proposed signage will not obscure or compromise any important views or vistas from or to the site.</p> <p>The location and scale of the proposed signage is such that it will respect the viewing rights of other advertisers by not blocking the line of sight of any existing advertising and will not be visually dominant.</p>
Streetscape, setting or landscape	<p>The scale, proportion and form of the proposed signage is appropriate for the streetscape, as the subject site is located within an established urban area.</p> <p>The proposed signs will contribute to the visual interest of the streetscape, as the signage will be of a high quality design and appearance and will complement existing signage located within the surrounding area.</p> <p>The proposed signage will not protrude above the buildings, proposed roof structures or tree canopies in the area and will not require ongoing vegetation management.</p>

Assessment Criteria	Proposed Signage
Site and building	The proposed signage is complementary in scale and proportion of the proposed building. The proposed signage demonstrates innovation in design thought, by optimising the location with view corridors along Lakeside Parade the purposes of “way-finding” whilst not impacting on traffic movements into and out of Jordan Springs and not impacting on the advertising opportunities of other businesses. The proposed signage has been designed to respect important features of the site and existing buildings in Jordan Springs in a simple yet efficient design.
Associated devices and logos with advertisements and advertising structures	The proposed signage contains a backlight to illuminate LED and these backlights have been designed as an integral part of each signage structure. The illumination of the signage is not considered likely to impact on residential properties as the signs are not orientated towards residential location but rather wayfinding for users approaching via footpaths and roads including Jordan Springs Boulevard and Lakeside Parade.
Illumination	The locations of illumination of the proposed signage will be designed so as not to detract from the amenity of any residences. All illumination will comply with the light emission criteria of SEPP 64 and has been designed in accordance with Australian Standards for illumination. Furthermore, the illumination of the proposed signage is not considered likely to adversely impact on adjoining properties.
Safety	<p>Traffic movements to and from the site and surrounding the site will not be affected by the proposed signage.</p> <p>The proposed signage has been designed to avoid any potential issues relating to the safety of pedestrian vehicular traffic and will not obstruct driver sightlines or pedestrian view lines. Furthermore, the construction and installation of the signage will be structurally sound.</p>

4.4 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

There are no draft environmental planning instruments affecting the proposed development.

4.5 SECTION 4.15(1) (A) (III) DEVELOPMENT CONTROL PLANS

In 2013 the NSW Government made legislative amendments aimed at restating the strength of DCPs. The amendments have returned the DCP status to what was initially intended, being a ‘flexible guideline’ that would complement the development controls provided by the legally binding LEP. The amendments also provide that during the decision-making process, the Council is required to as a result of Section 4.15(3A)):

- Use a flexible approach in applying DCP standards,
- Not to enforce more onerous standards than those contained in the standards of the LEP.

Where Section 4.15(3A) states:

(3A) Development control plans If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and*
- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and*
- (c) may consider those provisions only in connection with the assessment of that development application.*

In this subsection, standards include performance criteria.

Therefore, *Environmental Planning and Assessment Amendment Act 2012 (and as amended on 1 March 2018)*, clarified the purpose and status of development control plans, being to ‘**provide guidance**’ to proponents and Councils in achieving land use zone objectives and facilitating permissible development under an environmental planning instrument. Furthermore, to assist in the assessment of DAs, the amended legislation states that where a proposal does not comply with DCP controls, the consent authority is to be ‘**flexible in applying those provisions**’ and allow for ‘**reasonable alternative solutions**’ that achieve the objectives of those standards for dealing with that aspect of the development. It is important to recall these revisions to the status and application of DCPs in development assessment.

4.5.1 Penrith Development Control Plan 2014

The *Penrith Development Control Plan 2014* (PDCP) applies to land in the Penrith LGA. The PDCP provides a comprehensive set of development principles. However, the DCP does not include specific provision to assist with designing a “nursing home” form of development as proposed under SREP 30.

A detailed assessment of the proposal against the relevant DCP controls has been undertaken with the preparation of the following documents/reports/drawings:

1. Concept Stormwater Management Drawings and Report, WSUD and model, civil engineering drawings and Sedimentation and Erosion Control Plan at **Appendix H** to respond to the DCP;
2. A Landscape Concept Drawings at **Appendix E** to respond to the DCP;
3. Waste Management Plans at **Appendix D**;
4. Acoustic Report at **Appendix P** to respond to the DCP;
5. A BCA and Access Statement is included at **Appendix F**;
6. A Section J Report (Energy Efficiency) at **Appendix M**;
7. Bushfire Assessment Report at **Appendix K**;
8. Traffic and Parking Assessment Report at **Appendix C**;
9. Social Impact Statement at **Appendix O**;
10. Geotechnical Report at **Appendix J**;
11. Flora and Fauna Report (SIS) at **Appendix L** to respond to the DCP; and
12. Contamination Report and Site Audit Statement at **Appendix I**.

In summary, the proposed development demonstrates a high level of compliance with the relevant parts of the PDCP relating to the proposed nursing home building.

4.5.2 Precinct Plan and Development Control Strategy – Western Precinct St Marys

A Precinct Plan for the Western Precinct (WPP) and an accompanying Development Control Strategy (DCS) have been prepared and adopted by Council at its Ordinary Meeting on 23 March 2009 to guide the future development of the Western Precinct.

The proposed development has taken into consideration the precinct plan and development control strategy for the Western Precinct and is:

1. consistent with the terms of the planning agreement
2. the performance objectives and the zone objectives and other requirements prescribed by the REP can be achieved
3. development control strategies contained in the environmental planning strategy has been considered in the planning and design of the proposal.

Refer to **Appendix Q** for table of assessment against the DCS.

4.6 SECTION 4.15 (1) (A) (IIIA) PLANNING AGREEMENTS

Penrith City Council, St Marys Land Limited and Lend Lease Development entered into a Planning Agreement in May 2009. The St Marys Penrith Planning Agreement has made provisions for open space, transport, human services and infrastructure works for the Western and Central Precincts of the St Marys Development Site.

In addition, a State Development Agreement (State Deed) was entered into between the St Marys Land Limited and the NSW Government. The State Deed specifies a series of obligations to be provided including, but not limited to:

1. Staged transfer and dedication of 900 ha of land to NPWS as a Regional Park;
2. Staged monetary contributions towards capital improvements within the 900 ha Regional Park;
3. Monetary contributions towards a Plan of Management for the 900ha Regional Park; and
4. Erection of stock proof fencing in stages along the boundaries of the 900 ha Regional Park.

An agreement has also been made between NPWS and Lend Lease with regards to contributions towards various embellishments of the Regional Park. This agreement includes commitments with regards fencing, access, and the Urban-Regional Park interface.

It is noted that the current planning agreements does not extend to third parties such as CHL.

As such, there is no Planning Agreement in force relevant to this DA.

4.7 SECTION 4.15 (1) (A) (IV) ANY MATTER PRESCRIBED BY THE REGULATION

Should the district panel wish to grant approval, Council will need to include in the draft condition set conditions to address the mandatory clauses under the *Environmental Planning and Assessment Regulation 2000*.

4.8 SECTION 4.15 (1) (A) (V) REPEALED

Not applicable.

4.9 SECTION 4.15 (1) (B) IMPACTS OF DEVELOPMENT

Pursuant to Section 79C (B) of the Act, *'the likely impacts of that development'* have been considered as follows:

4.9.1 Proposed Height, Bulk and Scale

The proposed height of the building is considered to be consistent with the desired character and objectives of SREP 30 and the associated Precinct Plan and Development Control Strategy.

Therefore, it is considered that the height, bulk and scale of the proposed building is suitable for the site and will not result in any unacceptable adverse impacts to adjoining properties.

4.9.2 Shadow Impacts

Shadow diagrams have been prepared for the proposed building which indicates that the proposed development will not adversely impact on the available solar access to adjoining properties.

4.9.3 Context and setting

The proposed development constitutes an appropriate and compatible land use in the locality.

The existing setting is characterised by a mix of high and low density development. The proposed development has been designed having regard to the characteristics, topography, and orientation of the site and its relationship to neighbouring land as well as the wider lakeside setting. As such, the subject site is considered an appropriate context and setting for the proposed development within Jordan Springs being consistent with the existing desired future character of the locality.

The proposed nursing home development can make a contribute to the amenity of the public domain by significantly improved streetscape presentations to each of the street frontages refer to the Architectural Design Statement at **Appendix B**.

The proposed development will also contribute to the safety of the public domain through passive surveillance from the development and into the development.

4.9.4 Heritage

The subject site is not identified as a heritage item, and does not immediately abut an item of heritage significance. There are no heritage items on or adjoining the subject site has identified in the SREP and the site is not located within a heritage conservation area.

4.9.5 Bushfire Considerations

The subject site is identified as being impacted by Bushfire Prone Land Vegetation on the bushfire maps available on Council's website.

As such a Bushfire Assessment Report has been prepared and included at **Appendix K**. The recommendations of this report have been considered in the design of the proposed building.

4.9.6 Access, traffic and parking

Vehicular access to the site is proposed from Lakeside Parade. Refer to the Traffic and Parking Assessment report at **Appendix C** for the reasons for the access arrangements, which is comply with the required sight distances of the relevant Australian Standard.

Pedestrian access to the site has been designed into the site from Lakeside Parade, and alternate access via a pathway to Jordan Springs Boulevard and the recently approved road to the west of the site. Pedestrian access within the site development and through the site will provide universal access, refer to the BCA and Access report at **Appendix F**.

4.9.7 Utility service infrastructure

The subject site has access to essential services including water, sewerage, electricity, telecommunications and gas available to it with capacity to accommodate the proposed development.

4.9.8 Air and microclimate

The proposed development is not considered likely to give rise to a change in the existing microclimate and can be managed via the imposition of reasonable conditions.

4.9.9 Social Impact Assessment

The applicant's consultants have prepared a Social Impact Comment in accordance with Council's requirements for a "nursing home", which can be found at **Appendix O**.

As indicated in Section 3.3, CHL has undertaken their own research which demonstrates there is a need to commence "planning" now for the significant shift in the ageing population cohort which this nursing home will make a significant contribution including the provision of 40% concessional places.

Overall, the proposal will result in a positive social impact in that the development will provide for new aged care facilities in the Jordan Springs locality, and will result in activation and overall improvements to the public domain.

4.9.10 Lighting

All external Lighting can be designed to comply with the requirements of the Australian Standard, so as light spill does not become problematic and contained to the site while at the same time assist with Crime Prevention measures.

4.9.11 Acoustics/Noise

An assessment of the existing acoustic environment and the proposed development has been undertaken as detailed in the Acoustic Report included at **Appendix P**, which advises:

This report presents an acoustic assessment of noise impacts associated with the proposed development at Catholic Healthcare, Jordan Springs.

Provided that the treatments set out in section 4.4 of this report are implemented, internal noise levels (as a result of traffic noise impacts) will comply with the requirements below:

1. Penrith City Council DCP 2014; and
2. Australian and New Zealand AS/NZS 2107:2016.

External noise emissions criteria have been set out in this report to satisfy the requirements from the following documents;

- Penrith City Council DCP 2014 and
- NSW EPA Noise Policy for Industry (NPfI)

Provided that the recommendations set out in section 5.3 of the report are adopted, noise emission goals for the development will be achieved.

As such, the proposed development will be acceptable in terms of its acoustic impact considerations and can be supported as submitted subject to the above.

4.9.12 ESD performance of proposed building

The proposed building will be constructed in accordance with the Building Code of Australia under the National Construction Code which requires buildings of this classification to comply with the required energy efficiency requirements. Please refer to the Section J Report at **Appendix M**.

4.9.13 Natural and Technological Hazards

The site is not subject to any known natural or technological hazards which would preclude the DA.

4.9.14 Soils

It is unlikely that the works will have adverse impacts on the soil quality of the site subject to the appropriate management regimes being met at these phases to manage geotechnical considerations – refer to **Appendix J** for Geotechnical report.

4.9.15 Waste Management

Waste Management Plans form part of this DA included at **Appendix D**. These include the measures proposed for managing waste in the construction and operational phases according to waste management principles and priorities of:

- Reduce wastes at the source;
- Reuse materials, where possible;
- Recycle wastes, where practical;
- Removal of all waste from the site; and
- Dispose of wastes appropriately and responsibly.

4.9.16 Flora and Fauna

A Flora and Fauna (SIS) report is included at **Appendix L**. The report provides guidance and appropriate management and protective measures.

The proposed development includes concept landscape drawings at **Appendix E** which include street tree plantings.

4.9.17 Erosion and Sedimentation

An erosion and sedimentation assessment and management plan prepared for the subject site is included at **Appendix H**.

4.9.18 Contamination

A Contamination Report and Site Audit Statement are included at **Appendix I** which concludes that the site is suitable for the development.

4.9.19 Safety, Security and Crime Prevention

The proposed nursing home building will employ a number of passive and active crime prevention measures as part of Crime Prevention through Environmental Design (CPTED). The proposed development has been designed for safety and security of site users and to accord with the principles of CPTED including the following:

- natural surveillance with clear sight lines and avoidance of blind corners and sightline obstructions across trafficable parts of the site and between activity areas;
- active CCTV surveillance and security services;
- access control for back-of-house and loading dock areas, and for outside operating hours;
- durable building design and materials, and proposed Chatswood East Woolworths site management will contribute to territorial reinforcement.

Overview

Table 5 provides a summary of the proposed development's design response against the four CPTED principles, being surveillance, access control, territorial reinforcement and space management.

Table 5: Design responses of the proposed development against the CPTED Principles

CPTED PRINCIPLE	DESIGN RESPONSE
Surveillance	Sight lines between corners and entrances of all building entries and vehicular entry and access points have been designed to minimise hiding opportunities. This has been achieved through the removal of unnecessary walls/obstructions, the use of clear glazing where possible, as well as maximising sight lines from the entrances of the proposed building to the street frontages. The use of CCTV cameras will also be a technical surveillance addition used throughout the building, and the entry and exit points to the building.
Access Control	The use of security shutters/swipe card access to the doors associated with staff accessing the building, administration offices, utilities, store rooms and loading dock of the proposed development. All areas that are restricted will be kept locked at all times, with staff/employees given access to these areas through security clearances.

CPTED PRINCIPLE	DESIGN RESPONSE
Territorial Reinforcement	It is necessary to ensure the effective use of physical and symbolic barriers to attract, channel or restrict the movement of people to minimise opportunities to commit crime. Additionally, the design and location of the access to the building allows the opportunity for customer and staff surveillance.
Space Management	The design of the proposed development incorporates aspects which define and distinguish areas strictly for private use/access from the areas utilised for public and semi-public purposes. All proposed lighting and signage has been designed accordingly. Where appropriate, the utilisation of signage, site furnishings and paving detailing to delineate between public and private spaces has been included. The creation of well-kept and attractive spaces will help to attract more people, and thus reduce the likelihood of crime occurring through increased passive surveillance. The use of quality design combined with the implementation of an appropriate management, upkeep and cleaning strategies will reinforce perceptions of safety.

Design Considerations Relationship between Design and Crime

Crime Prevention: Aims to prevent crime and anti-social behaviour before it occurs.

Social prevention: Aims at addressing socio-economic causes of crime.

Situational prevention: Seeks to reduce opportunities for crime and anti-social activity through changing the environment

Examples:

- A typical offender will assess the potential crime location before committing a crime.
- Building design or use can create an environment that is not conducive to crime.
- Building design should seek to address both actual crime and fear of crime.
- Good design should encourage an open society, open space and freedom of movement.

A fear of crime leads to reduced participation in civil society. This also leads to a self-fulfilling prophesy, that is if an area is perceived as unsafe, people retreat into homes, surveillance is reduced, and crime is encouraged.

Holistic Approach

Crime Prevention for development – a holistic approach involving:

- CPTED (Crime Prevention through Environmental Design) principles;
- Engineering and physical measures. E.g. CCTV, security doors, security patrols, mirrors;
- Management strategies. E.g. Security Management Plan.

Crime Prevention through Environmental Design

Crime Prevention through Environmental Design (CPTED) aims to reduce crime and change perceptions of crime through changing the physical environment.

- CPTED increases risk for criminals by increasing chance of detection, challenge and capture;
- Increases effort required to commit crime by increasing the time, energy and resources needed to be expended;
- Removes conditions that create confusion about behaviour norms;

The CPTED Principles

There are four principles that need to be used in the assessment of development applications to minimise the opportunity for crime:

- Surveillance;
- Access Control;
- Territorial Reinforcement;
- Space Management.

Particular consideration has been given to the incorporation of these principles concerning entrances, sight lines, vehicular access and exit onto the premises and from the car park, opportunities for technical and passive surveillance, interrelationships with the parking area, and loading dock facilities, lighting, legibility and accessibility, ownership and space management, security and safety, and minimisation of ‘entrapment’ opportunities.

4.9.20 Economic Impact

The proposed development will ensure that the new development is complementary to the existing nearby context and setting in Jordan Springs.

The proposed CHL Jordan Springs will employ 41 people.

The potential for additional jobs being generated as a result of support services such as kitchen functions and linen services beyond the boundaries of the site as a multiplier effect will also occur.

The proposed development will have a number of positive social and economic effects in the locality, which are considered to mitigate any adverse economic impacts, including:

- Meet the needs from the growing aged community of Jordan Springs and the wider LGA;
- provide aged care facilities with a wide range of services to support home care functions in the LGA provided by CHL;
- generates permanent employment with direct jobs on-site in the development and indirect flow-on jobs;
- generates construction employment with direct and indirect jobs; and
- provides for a new public domains and streetscapes as a location for social activity that contributes to building a sense of place, identity, community and social cohesion.

4.9.21 Construction Impacts

A Construction Management Plan can be prepared as part of a Construction Certificate once a builder has been appointed and prior to the commencement of works to manage potential impacts of construction activities including site safety, security and access control, construction vehicles, soil and water management, waste management, noise and construction hours.

4.10 SECTION 4.15(1)(C) SITE SUITABILITY

Section 4.15(1)(C) of the act requires consideration of the suitability of the site for the development. The primary matters under Section 4.15 (1)(C) are whether the proposal fits into the locality and if the site attributes are conducive to the proposed development.

The site and surrounding locality do not present any significant physical, ecological, technological or social constraints on the site for the proposed development. In summary, there are limited constraints on the proposed development of the site and minimal conflicts will occur with surrounding land uses.

4.11 SECTION 4.15(1)(E) THE PUBLIC INTEREST

Section 4.15(D) and (E) of the EP&A Act require that any public submissions made in accordance with the Act or the public interest be considered in the development assessment process.

Council will notify and advertise the application as required by the PDCP. Any submission received will be taken into consideration during the assessment and determination process.

The proposed “nursing home” development will not significantly impact on the environment, will improve consumer choice for aged care in the locality including provision of 40% concessional places, will result in a good design outcome and is generally consistent with the applicable planning controls and strategic documents for the site. It is therefore considered to be in the public interest.

4.12 SECTION 4.46 OF THE EP&A ACT - INTEGRATED DEVELOPMENT

The provisions of Section 4.46 of the EP&A Act states:

4.46 What is “integrated development”?

(1) Integrated development is development (not being State significant development or complying development) that, in order for it to be carried out, requires development consent and one or more of the following approvals:

Under the provisions of Section 4.46 of the EP&A Act, where a proposed development triggers the requirements for an approval from a State Government department, agency or authority a proposal is integrated.

As a portion of site is impacted by the bushfire mapping, a referral to RFS as an integrated body is required to obtain the General Terms of Approval.

4.13 SECTION 7.11 AND SECTION 7.12 OF THE EP&A ACT – REQUEST FOR EXEMPTION TO CONTRIBUTIONS

Penrith City Council Section 94 Development Contributions Plan titled “Penrith Contributions Plan 2009 (March 2011)” applies to all new residential and commercial development including “nursing home” form of development throughout the LGA.

Ministerial Direction issued under S94E of the EP&A Act dated 14 September 2007 advises certain exemptions apply to aged care provided by a “social housing provider” from a contribution. A “social housing provider” is defined to mean any of the following:

- (a) the New South Wales Land and Housing Corporation,*
- (b) the Department of Housing,*
- (c) a community housing organisation registered with the Office of Community Housing of the Department of Housing,*
- (d) the Aboriginal Housing Office,*
- (e) a registered Aboriginal housing organisation within the meaning of the Aboriginal Housing Act 1998,*
- (f) the Department of Ageing, Disability and Home Care,*
- (g) a local government authority that provides affordable housing,*
- (h) a not-for-profit organisation that is a direct provider of rental housing to tenants.***

CHL is a Commonwealth registered not-for-profit organisation that provides access to tenants. A non-profit organisation is an organisation that is not operating for the profit or gain of its individual members. Any profit made by the organisation goes back into the operation of the organisation to carry out its purposes and is not distributed to any of its members. It is submitted that this is the case with CHL.

The building proposed by CHL will remain the property of CHL and will be made available to tenants for a fee. Thus, CHL provides rental beds/places to its tenants. Consequently, there is no form of Section 7.11 or Section 7.12 Contribution under the adopted plans that can be levied for this development.

5. CONCLUSION

This SEE report has been prepared to assess a proposed development which seeks approval for the proposed construction and operation of a multi-level “nursing home” for 144 beds under *Sydney Regional Environmental Plan No. 30 - St Marys* at the corner of Jordan Springs Boulevard and Lakeside Parade, Jordan Springs, which has been identified as suitable for such a development.

The aim of this report has been to provide the following:

- Description of the site and locality;
- Description of the proposed development;
- Assessment of relevant environmental planning matters for consideration under Section 79C of the EP&A Act including compliance with planning instruments and controls, environmental impacts, site suitability and the public interest; and
- A conclusion with respect to the proposal.

This environmental planning assessment makes the following conclusions about the proposed development:

- it complies with SREP 30 being the main planning instrument affect the land and the proposal;
- it is consistent with the existing and desired future character of the locality in the Jordan Springs area;
- it will not have any unreasonable impact on adjacent properties or unacceptable socio-economic impacts which cannot be mitigated by the imposition of conditions; and
- there are no environmental constraints of such significance as to preclude the proposed development.

In summary, the proposed development is appropriate within the context of the subject site and is generally consistent with the statutory and policy requirements of both Council and the State government. The development is in accordance with the planning instruments relevant to the site. No significant impacts are envisaged to occur upon the amenity of surrounding properties. The proposal will result in a development which exhibits a high level of amenity for future residents and is expected to have a positive economic and social impact on the locality.

Given the above assessment, the proposed development has environmental planning merit and is considered to be in the public interest, and therefore we request the DA be supported by Council in its assessment report to the district panel.

APPENDIX A

Site Survey and Registered Plan of Subdivision (reduced)



APPENDIX B

Architectural Drawings, Site Analysis, Materials and Finishes (reduced) and Design Statement



APPENDIX C

Traffic Report



APPENDIX D

Waste Management Plans



APPENDIX E

Concept Landscape Drawings (reduced)



APPENDIX F

BCA and Access Report



APPENDIX G

QS Letter



APPENDIX H

**Engineering Drawings, Stormwater management drawings (reduced), report
and WSUD**



APPENDIX I

Contamination Report and Site Audit Statement



APPENDIX J

Geotechnical Report



APPENDIX K

Bushfire Assessment Report



APPENDIX L

Flora and Fauna Report (SIS)



APPENDIX M

Section J Report



APPENDIX N

Legal Advice



APPENDIX O

Social Impact Assessment



APPENDIX P

Acoustic Report



APPENDIX Q

Compliance Tables



APPENDIX R

Pre-lodgement Meeting Notes



APPENDIX S

Urban Design Panel Meeting Notes



APPENDIX T

Urban Design Peer Review

