

JRPP No: 2010SYE001

D/A No: 200900562

Application Date: 24 December 2009 (additional information submitted on 14 January 2010, 22 February 2010, 22 March 2010, 1 April 2010 and 20 May 2010)

Proposal To erect a residential aged care facility containing 120 beds within a four storey building over basement car park, and a child care centre within a two storey building with off street car parking for 86 vehicles for the entire development.

Applicant: Domain Principal Group

Estimated Cost: \$23,958,800

Zoning: Residential 'C'

Manager Development Assessment reports:

Synopsis

Application to erect a residential aged care facility containing 120 beds within a four storey building over basement car park and a child care centre within a two storey building with off street car parking for 86 vehicles for the entire development.

The development application relates to a site commonly referred to as 'Warne Place', which is dominated by the remains of a large quarry cut into the hillside. Warne Place is affected by a site specific Local Environmental Plan Amendment (Amendments No. 12) and Development Control Plan (Marrickville Development Control Plan No. 40 – Warne Place South Marrickville) which guide development of the site. The DCP requires a comprehensive Master Plan (for the whole site) to be submitted as part any development application which seeks to develop all of part of the site. The DCP also requires a peer review of the Master Plan to be undertaken as part of the assessment process.

The application was notified in accordance with Council's Notification Policy and four (4) submissions were received. Following a preliminary assessment of the application and in response to the peer review of the Master Plan and architectural form, the applicant submitted amended plans which were notified in accordance with Council's Notification Policy and three (3) submissions were received.

The proposed development is to be constructed in four stages with Stage 1 involving site remediation, stormwater works and basement preparation works; Stage 2 involving the construction of the basement, the aged care facility, an harbour area, the Eden Room and theatre; Stage 3 involving the erection of the Hub Administration Centre; and Stage 4 involving the erection of the child care centre.

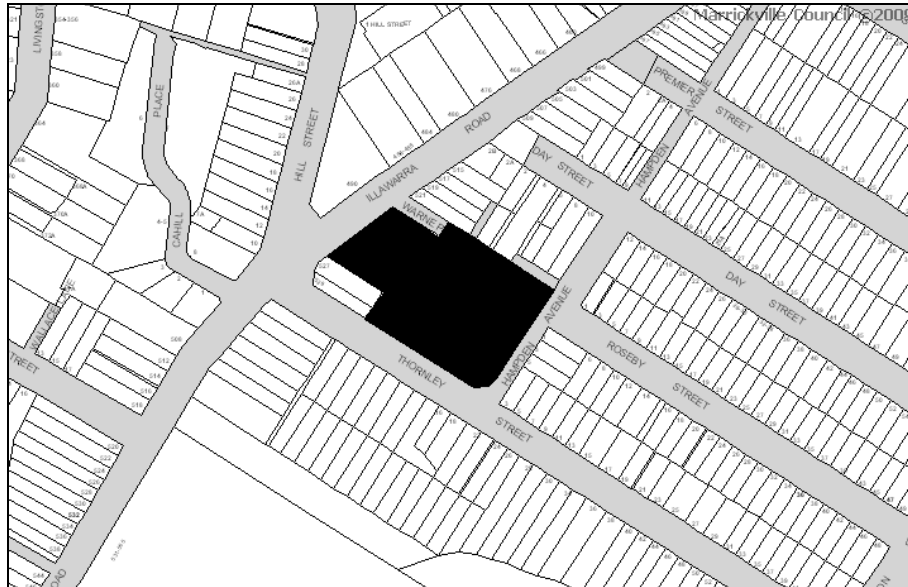
The proposed development generally complies with the objectives and controls contained in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, Marrickville Local Environmental Plan 2001 and Marrickville Development Control Plan No. 40 – Warne Place South Marrickville. The proposed development is a well integrated, distinctive/contemporary infill development that responds to the unique site opportunities and constraints provided by this former quarry.

It is considered that the proposed development will have a significant social benefit as it is to contain a child care centre and an aged care facility, both of which are services that are in high demand in the inner city area.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

PART A - PARTICULARS

Location Located on the north eastern corner of Illawarra Road and Thornley Street, South Marrickville



PART B - THE SITE AND ITS CONTEXT

Improvements: Vacant site



Photo 1 – View of site from Illawarra Road

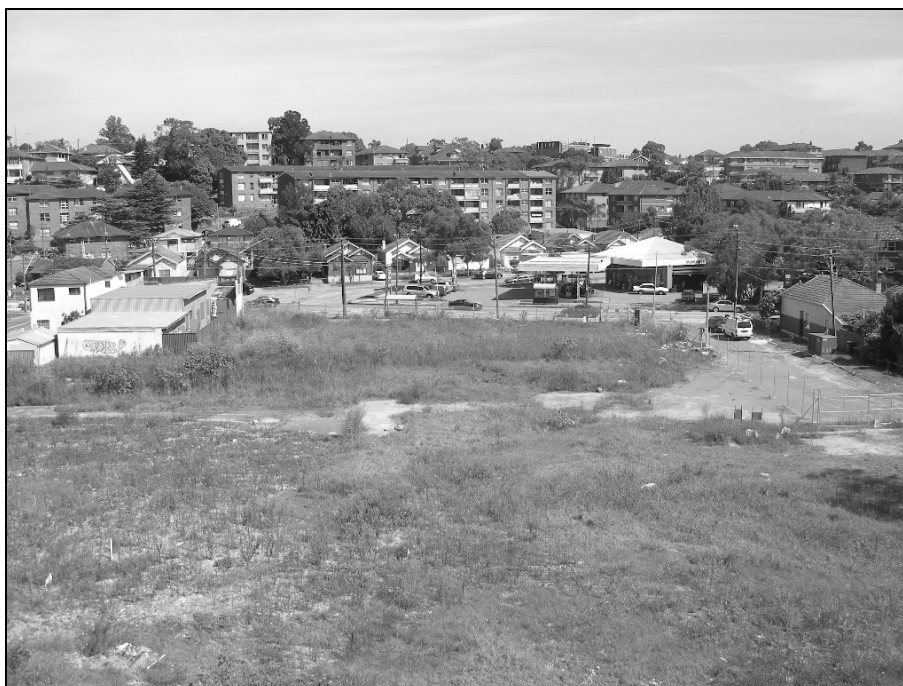


Photo 2 – View of site from Hampden Avenue

Current Use: Vacant site

Prior Approval: Determination No. 18304, dated 15 March 1999, approved an application to demolish the existing service station and remediate the site.

Land and Environment Court Order in Proceedings No. 11035 of 2005, dated 22 February 2006, granted a deferred commencement consent to an application to demolish the existing improvements at 525 Illawarra Road, Marrickville, remediate the land and construct a residential flat complex containing 106 dwellings (28 x 1 bedroom, 66 x 2 bedroom, 11 x 3 bedroom and 1 x 4 bedroom) with three (3) of the 1 bedroom dwellings on the ground floor facing Illawarra Road allocated for home based commercial uses, with off-street parking for 140 vehicles. The consent was subsequently modified on 19 October 2006. The person acting on the consent satisfied the matters referred to in Part A of the Determination and the consent became operative on 31 January 2007. That consent is still operative and lapses on 31 January 2012.

Environment: The subject site is generally surrounded by low scale residential development with a service station located on the opposite side of Illawarra Road and the Debbie and Abbie Borgia Community Centre and Steel Park located on the opposite side of Thornley Street.

PART C – REQUIREMENTS

1. Zoning

Is use permissible in zoning?

Yes

2. Development Standards (Mandatory Requirements):

| Type | Required | Proposed |
|-------------------------|-----------------|-----------------|
| Floor Space Ratio (max) | 1.2:1 | 1.11:1 |

3. Departures from Council's Codes and Policies:

Nil

4. Community Consultation:

Required: Yes (newspaper advertisement, on-site notice and resident notification)

Submissions: Four (4) objections received after notification of the original application

Three (3) objections received after the notification of the amended application

5. Other Requirements:

ANEF 2029 Affection: <20 ANEF

Marrickville Section 94 Contributions Plan 2004

PART D – ISSUES

1. Background

The development application relates to a site commonly referred to as 'Warne Place' which is dominated by the remains of a large quarry cut into the hillside. A sandstone wall was constructed along the top of the quarry wall in the mid 1930's as part of the depression relief work undertaken at that time. This wall and the quarry cliff face are listed as a heritage item under Marrickville Local Environmental Plan (MLEP) 2001 (MLEP 2001).

MLEP 2001 (Amendment No. 12) and Marrickville Development Control Plan No. 40 – Warne Place South Marrickville (DCP 40) were prepared by Marrickville Council in order to rezone the subject site to Residential 'C' and provide site specific planning controls for the site's redevelopment. The allotments within the Warne Place site fronting Illawarra Road were previously zoned Residential 'A', whilst the remainder of the site was zoned Private Open Space under MLEP 2001.

DCP 40 was adopted by Council on 4 March 2003 and came into force on 29 October 2003 following the gazettal of MLEP 2001 (Amendment No. 12) on 12 September 2003.

MLEP 2001 (Amendment No. 12) applies to the whole of the site. The LEP Amendment:

- Rezoned all of the land to Residential 'C';
- Permits a number of commercial / retail purposes (however specifies a maximum size and location of such uses) which would otherwise be prohibited in a Residential C zone; and
- Sets a range of floor space ratios for development of the site ranging from 0.75:1 to 1.5:1 depending on the level of site consolidation (the site contains a number of separate allotments in a fragmented subdivision pattern and the LEP Amendment and accompanying DCP encourages site consolidation by offering increased floor space ratios depending on the level of consolidation).

DCP 40 in conjunction with Marrickville Development Control Plan No. 35 – Urban Housing (Vol. 2) contains a range of planning controls to facilitate development of the subject site.

On 15 April 2005 a development application was submitted to Council which sought approval to demolish the existing improvements, remediate the land and construct a residential flat complex containing 106 dwellings with off-street car parking for 140 vehicles. The application was recommended for approval however the application was refused by Council. The applicant subsequently lodged an appeal with the Land and Environment Court, being Proceedings No. 11035 of 2005. On 22 February 2006 the Court upheld the appeal and the development application was approved by way of a deferred commencement consent. The person acting on that consent satisfied the matters referred to in Part A of the Determination and the consent became operative on 31 January 2007. That consent is still operative and will lapse on 31 January 2012 unless the development is actually commenced before such date in accordance with the requirements under the Environmental Planning and Assessment Act.

2. The Site and Surrounds

The subject site is bounded by Illawarra Road, Thornley Street, Hampden Avenue and Carey Street South, Marrickville. The legal description of the site is a consolidation of the Lot 549, DP 752049; Lot X, DP 421648; Lot 550, DP 752049; Lot Y, DP 42168; Lot 1, DP 1329692; Lot 2, DP 185590; Lot 21, DP 609856; Lot 22, DP609856; Lot 23, DP 609856; Lot 1, DP 186932 and part of Roseby Street. The site is more commonly known as 525 Illawarra Road, Marrickville.

The site is an irregular parcel of land having a 47.1 metre frontage to Illawarra Road, a depth on the north eastern boundary 78.99 metres, a 62 metre (approximate) frontage to Hampden Avenue, a 73 metre (approximate) frontage to Thornley Street and a further 36 metres adjacent to the north eastern boundary of 527 Illawarra Road. The site has an area of approximately 7,434sqm.

Warne Place is dominated by the remains of a large quarry cut into the hillside which operated between 1886 and 1890. The site is bordered by the cutting of the former quarry on its eastern side and in part on its northern and southern side. The quarry face adjacent to the Hampden Avenue street alignment varies in height between 9 metres at the southern end and 14 metres at the northern end.

The surrounding area is characterised by a mixture of residential uses and recreation uses. To the north and east the site is primarily adjoined by dwelling houses. To the west the site is bounded by low to medium density residential flat buildings, whilst to the south the site is bounded by Steel Park which contains a large community recreation facility known as the Debbie and Abbie Borgia Community Centre.

Some retailing is located on the corner of Thornley Street and Illawarra Road which is directly adjacent to the subject site. Opposite the site is a service station and further to the north is the Illawarra Road West Neighbourhood Business Centre.

3. The Proposal

Approval is sought to erect a residential aged care facility containing 120 beds within a four storey building over basement car park and a child care centre within a two storey building with off street car parking for 86 vehicles for the entire development.

The four (4) storey residential aged care facility is to be located at the rear of the site, whilst the child care centre and commercial offices are to be contained in a two (2) storey building located at the front of the site which addresses Illawarra Road.

The development is proposed to be constructed in four stages, namely:

- Stage 1 – Whole of site – site remediation, stormwater works and basement preparation;
- Stage 2 – Whole of basement, aged care facility, harbour area, Eden room and theatre;
- Stage 3 – “The Hub” administration centre; and
- Stage 4 – Child care centre and upper level commercial tenancy.

The applicant made the following submission in describing the proposal in the Statement of Environmental Effects submitted with the original development application:

“It is proposed to construct a part 2 storey, part 4 storey, 120 bed residential care facility on the site, providing accommodation and care for the frail aged. The aged care accommodation buildings will be arranged around a central landscaped courtyard towards the western end of the site.

It is also proposed to construct separate two storey building at the north-western end of the site (the Illawarra Road frontage). This building will accommodate a child care facility to the ground floor and commercial offices to the second storey.

The residential accommodation is arranged so as to create small communities of residents, with sitting rooms and dining areas provided for each community. The facility is spread over 4 'wings', with the main entrance and administrative functions located at ground floor in the wings parallel to Warne Place and Illawarra Road.

The proposed residential care facility comprises:

- *a basement with 81 car parking spaces. Vehicle access to the basement will be via the entrance driveway off Warne Place. A port cochere turning arrangement will be constructed to facilitate drop/off collection from the facility entrance. A lift from the basement conveys visitors and staff to the entrance foyer of the facility. A second lift at the north-eastern end of the car park conveys visitors and staff to the child car facility/office building.*
- *the ground floor comprises 21 single rooms (each includes a bedroom and en suite), offices, administration areas, reception area, 3 sitting rooms, a quiet room, dining rooms, lounge room, library/computer area, nurses station, medication room, a pan rooms, hairdresser, kitchen, laundry, and storage areas. The wing at the north-western edge of the courtyard is the Eden Room, to be used for resident recreation and entertainment activities. The central courtyard is to be landscaped in accordance with the landscape plans and will be utilised by residents and visitors for passive recreation. The main entrance to the residential care facility is on the north-eastern side adjacent to a drop off bay is designed to accommodate ambulance parking.*
- *the first floor of the development comprises 33 single rooms, 6 sitting rooms, 2 dining rooms with adjoining decks, servery, nurses station, medication room, a pan room, quiet room, lounges and library/computer area. The floor above the Eden Room is the Hub, which will accommodate the state office of Domain Principal Group;*
- *the second floor comprises 33 single rooms, servery and two dining rooms with adjoining decks, sitting rooms, nurses station, medication room, a pan rooms and quiet room, lounges and library/computer area; and*
- *the third floor comprises 33 single rooms, servery and two dining rooms with adjoining decks, sitting rooms, nurses station, medication room, a pan rooms and quiet room, lounges and library/computer area.*

The proposed childcare/commercial office building facing Illawarra Road comprises:

- *a 60 child capacity child care centre on the ground floor of 494sqm and adjoining covered outdoor play area. The child care centre will operate between the hours of 7.00am and 7.00pm, Monday to Friday;*
- *the first floor comprises 440sqm of office space including ablutions facilities;*
- *five at grade parking spaces.*

The building will be constructed of cement rendered brick with a colorbond metal roof. The colours and materials have been selected to blend in with the existing neighbourhood and environment. Terraces and balconies will surround much of the exterior of the building including extensive communal terrace areas with access from sitting rooms.

Plans of the proposed residential care facility are provided, with colours and materials noted on the plans.

Vehicle access to the basement car parking level will be from Warne Place with 5 surface car spaces at the northern end of the site. These spaces are primarily intended to serve as drop off spaces for the child care facility.”

During the assessment process the applicant amended the proposal to seek approval for the use of the first floor level above child care centre as storage in association with the child care centre rather than commercial office space as originally proposed.

A copy of the site plan, floor plans and elevations of the proposed development as submitted with the application are reproduced below:

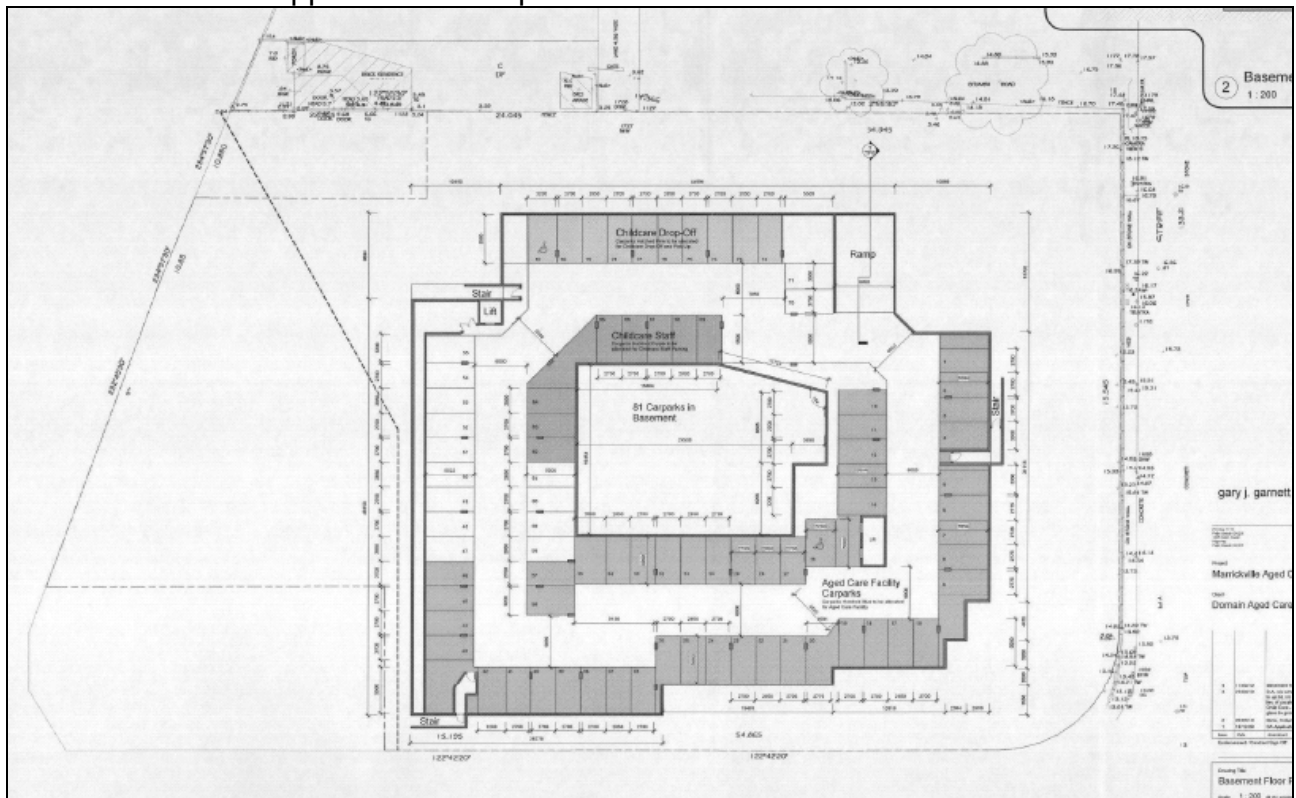


Image 1 – Basement plan

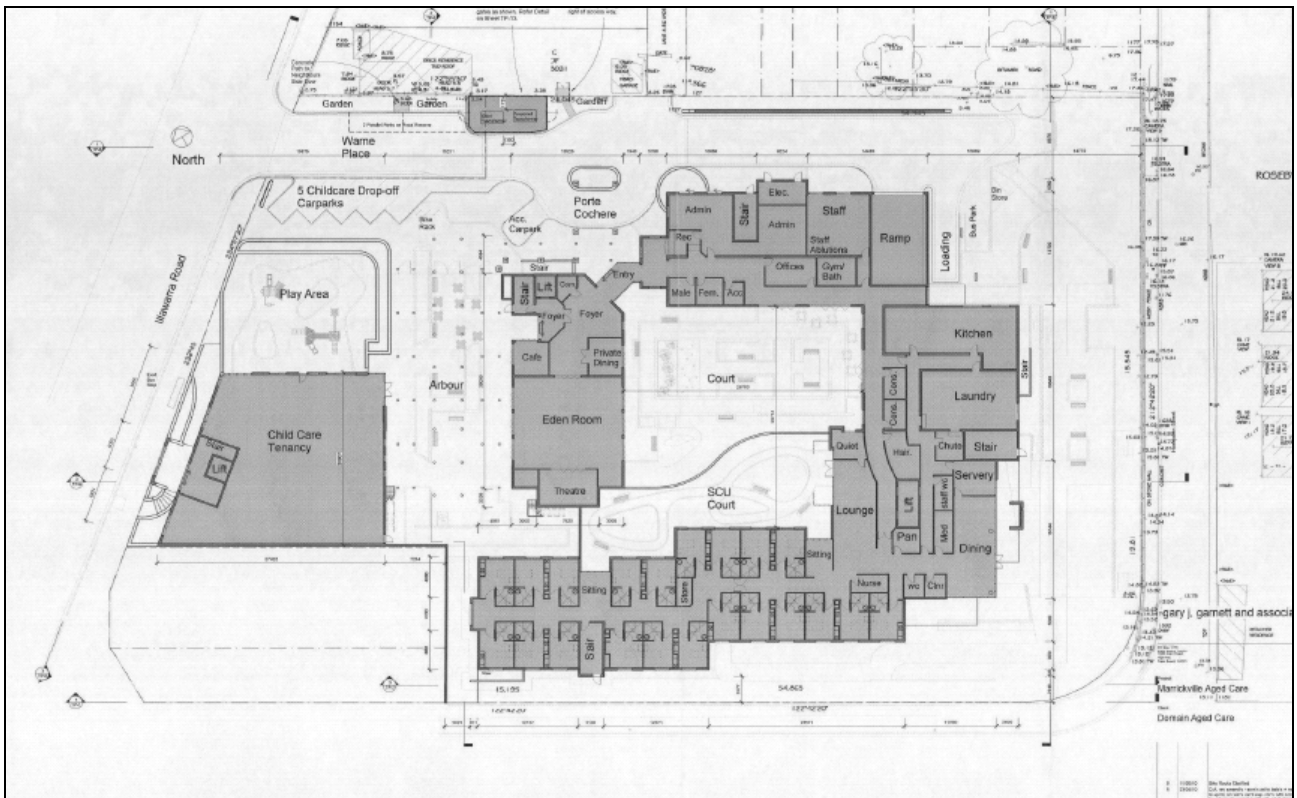


Image 2 – Ground floor plan

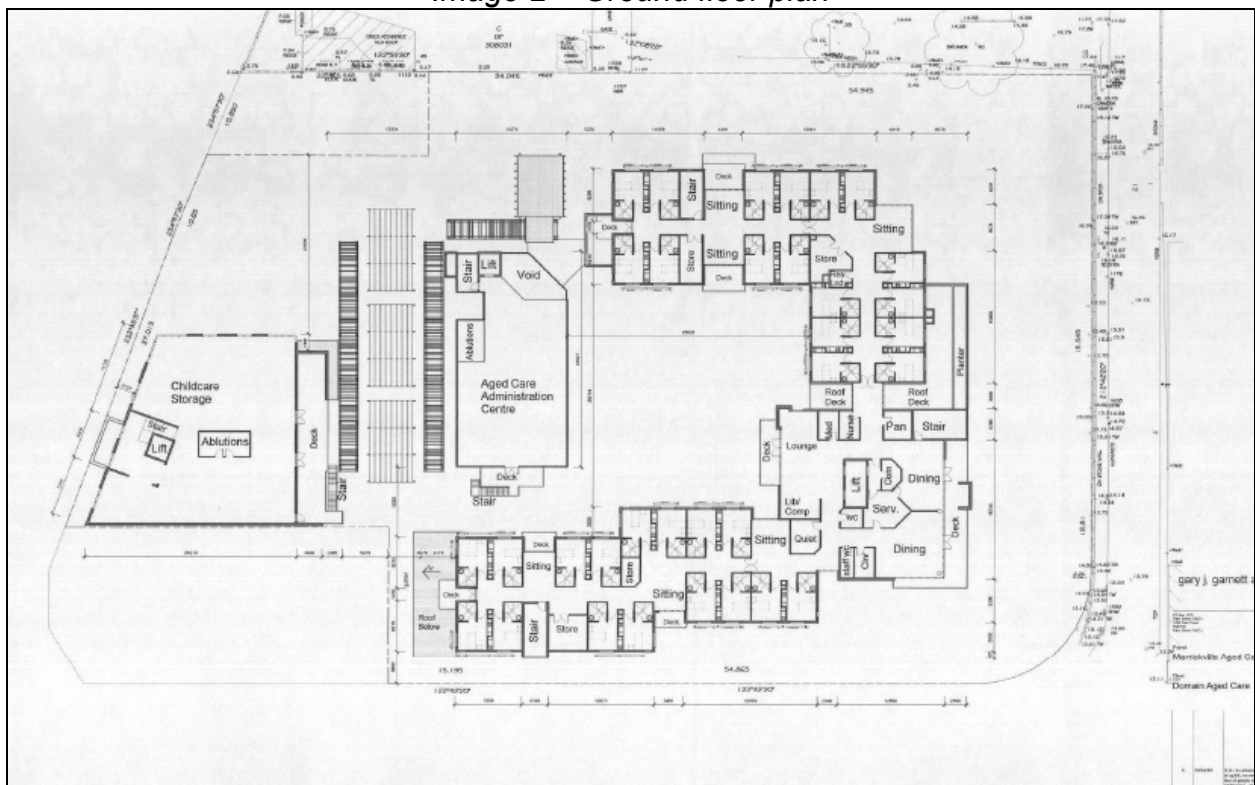


Image 3 – First floor plan

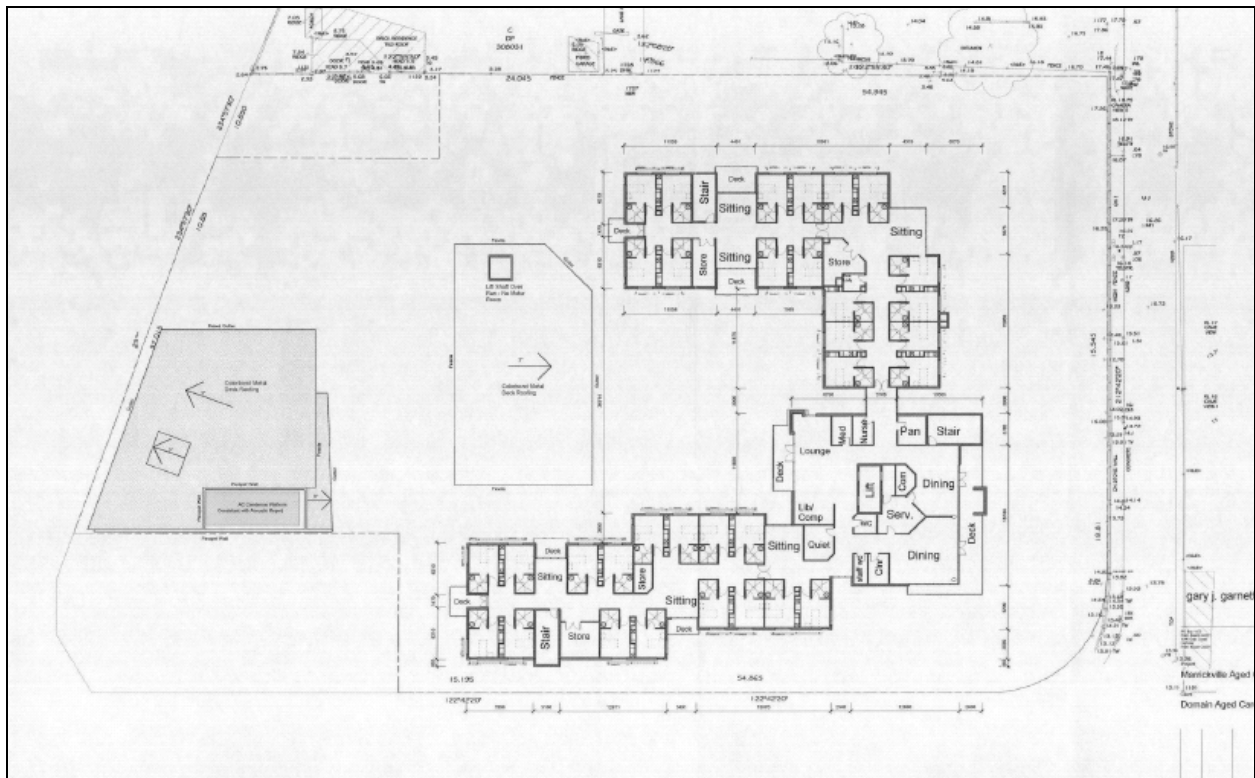


Image 4 – Second floor plan

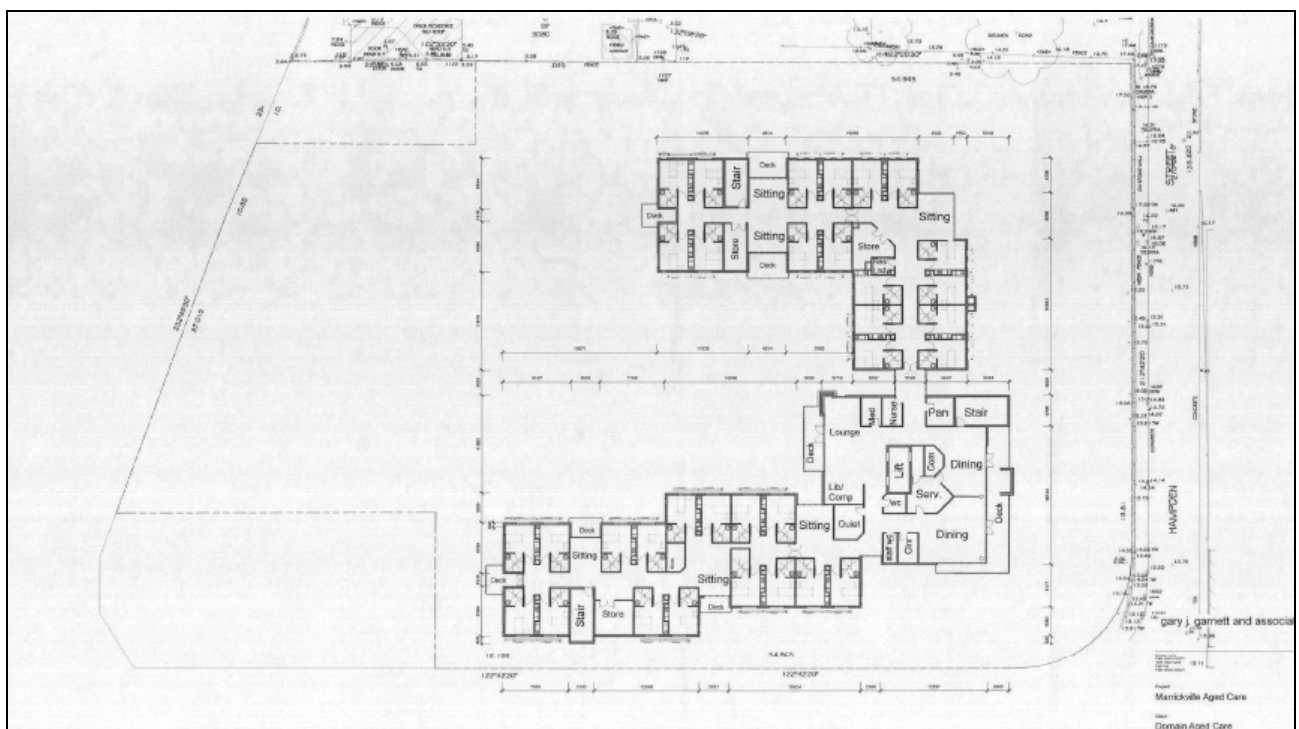


Image 5 – Third floor plan

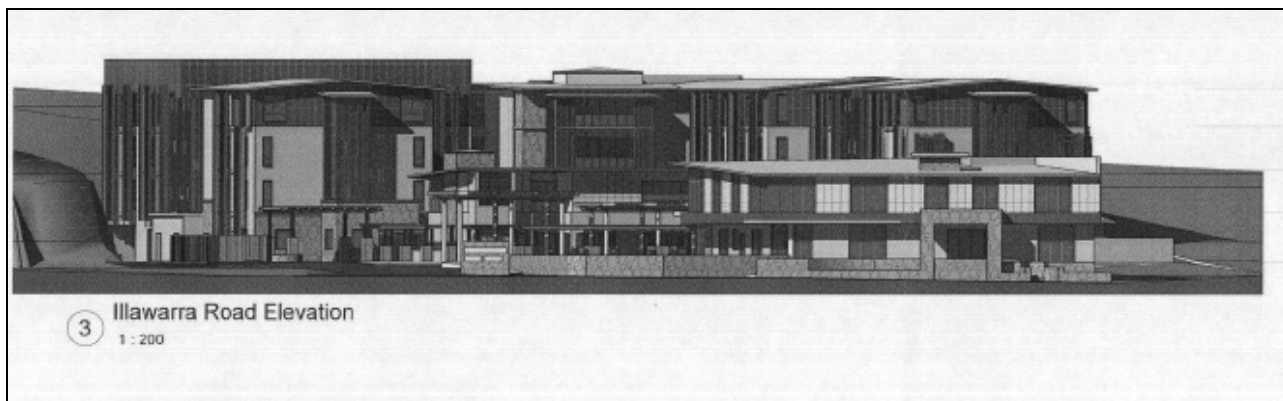


Image 6 – Illawarra Road (front) elevation

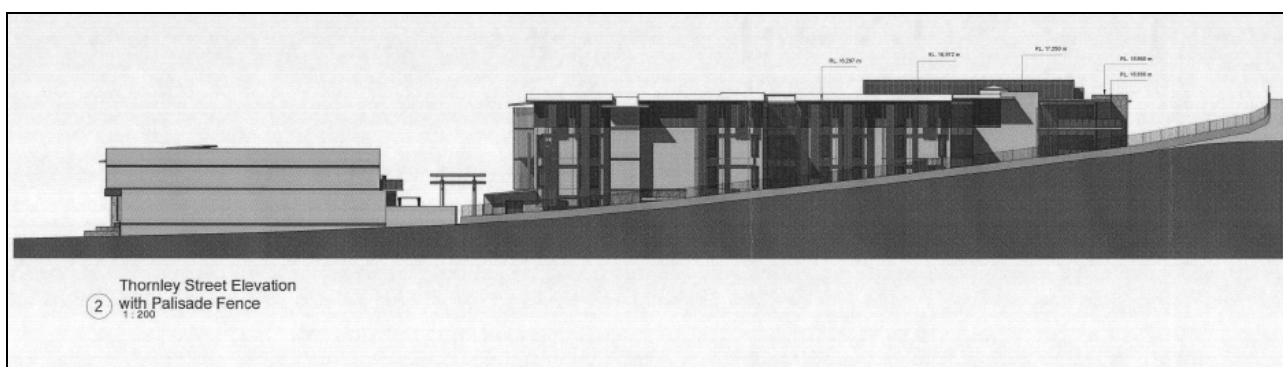


Image 7 – Thornley Street (secondary street) elevation

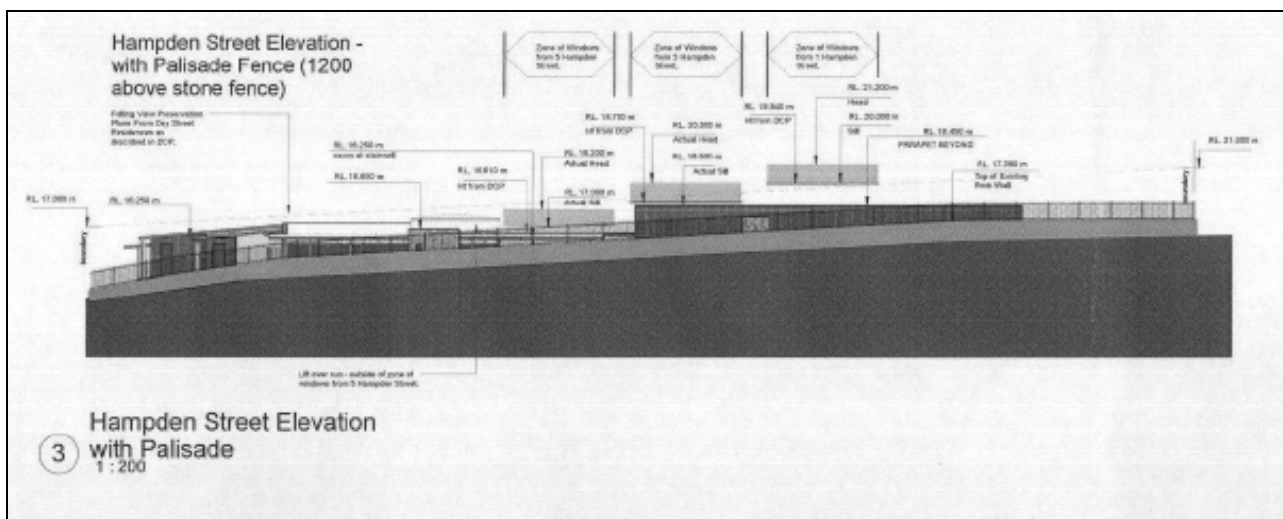


Image 8 – Hampden Street (rear) elevation



Image 9 – North eastern (side) elevation

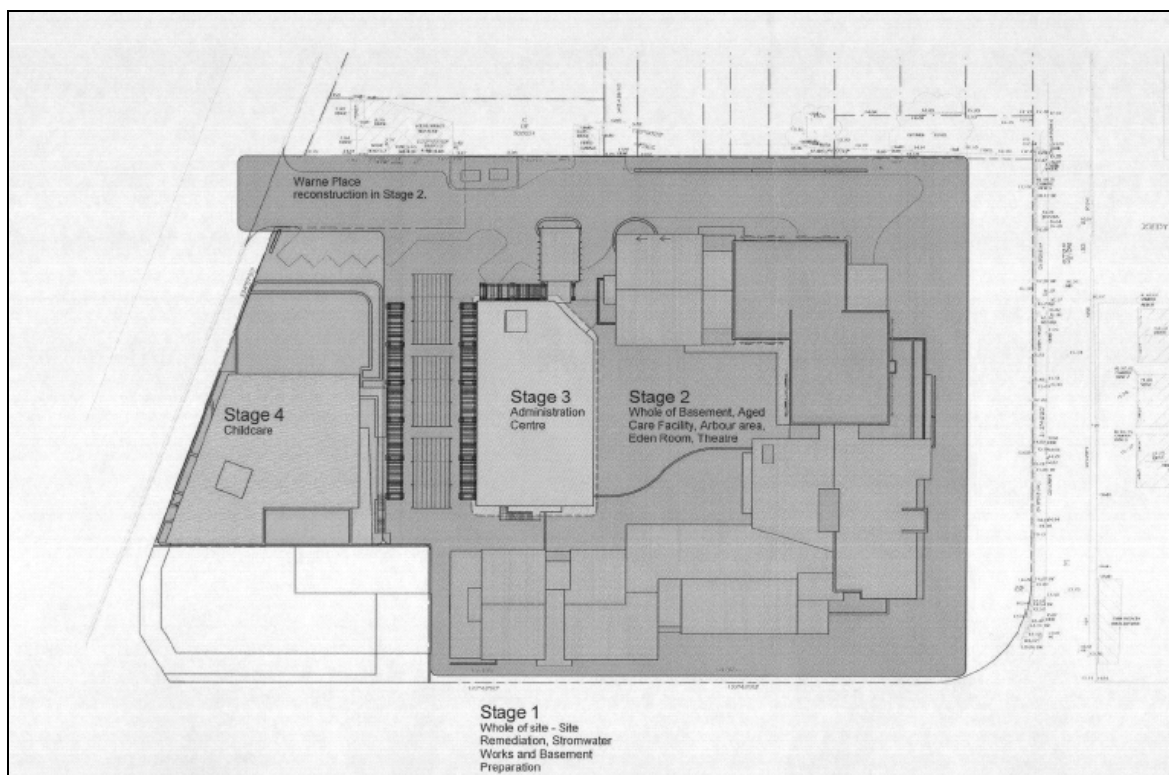


Image 10 – Staged development plan

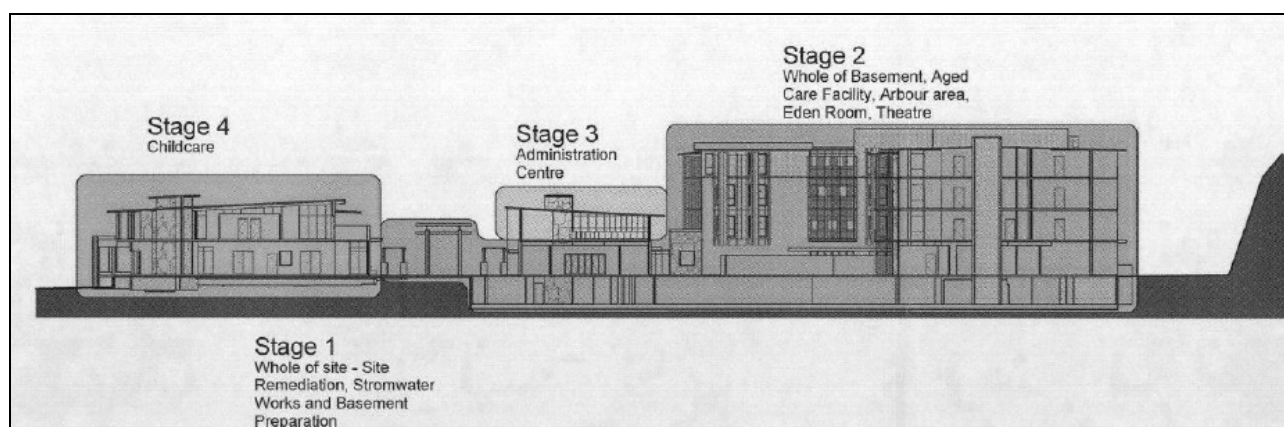


Image 11 – Staged development plan

4. State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55)

Under the provisions of State Environmental Planning Policy No. 55 – Remediation of Land and Marrickville Development Control Plan No. 29 – Contaminated Land Policy and Development Controls, Council 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.”*

The applicant submitted a Remediation Action Plan prepared by Environmental Resources Management Australia Pty Ltd as part of the subject development application which reads in part:

“A number of environmental investigations have been completed which are listed below.

- *Golders Associates Pty Ltd (Golders) (2005) Combined Stage 1 & Stage 2 Environmental Site Investigation, 525 Illawarra Road, Marrickville, NSW, April 2005;*
- *ERM (2008) Preliminary Phase I Environmental Site Assessment, Warne Place, Marrickville NSW, June 2009; and*
- *ERM (2009) Environmental Site Assessment Summary Report, Warne Place Marrickville NSW, June 2009.*

These environmental investigations identified a number of historical activities which may have contaminated soil and groundwater on site. These included the backfilling of the former quarry pit with uncontrolled fill in the 1800s, potential leaks or spills of petroleum products on the former fuel station and illegal dumping of asbestos and demolition waste.

Intrusive investigations reported a number of Contaminants of Potential Concern (COPC) in the fill material and soil including lead, copper, Total Petroleum Hydrocarbons (TPH), Polycyclic Aromatic Hydrocarbons (PAH) including benzo(a)pyrene and asbestos fragments and fibres. Some areas on site were also identified as Potential Acid Sulfate Soils (PASS) and Actual Acid Sulfate Soils (ASS). Cadmium, copper, lead, nickel, zinc, TPH and PAH contamination was also present in groundwater.

Based on the reported concentrations of COPCs in the soil and groundwater, the site in its current form was considered to be unsuitable for its future proposed land use. As a result a remediation strategy to address unacceptable soil and groundwater impacts has been prepared and is documented herein.

The RAP is based on the findings of previous investigations completed for the site and should therefore be read in conjunction with the associated reports.

.....The Overall objective is to render the site suitable for its future proposed development. The objective of the RAP is therefore to:

- *facilitate the completion of required remedial works in a manner that meets both stakeholder and relevant legislative requirements while minimising the cost of the overall development;*
- *identify remedial options available for the site and identify a preferred remedial strategy to render the site suitable for its future use (in relation to the protection of human health and the environment);*
- *identify general requirements for managing environmental compliance and occupational health and safety requirements during the course of remedial work; and*
- *identify contingency measures should the recommended remedial strategy be unsuccessful or be limited in its application, through the identification of options.*

This RAP has been prepared in accordance with the Guidelines for Consultants Reporting on Contaminated Sites (NSW EPA, 2000) and details the nature and extent of identified soil and groundwater contamination, the extent of remediation required, feasible remediation strategies to address the identified issues of concern, environmental management requirements and health and safety considerations.

This RAP is intended to be supplemented with a detailed Remediation Work Plan which will:

- estimate potential volumes and waste classification of material that will be managed on site or disposed off site as part of construction and remedial activities;*
- provide conceptual design drawings and layouts for identified onsite management options including containment cells;*
- provide procedures and plans for the completion of proposed remedial works; and*
- identify the environmental safeguards necessary to complete the proposed remedial works in a manner that minimises negative impacts upon worker health and safety and the environment.”*

Based on the above, it is considered that the site is capable of being remediated to render it suitable for the residential and child care uses proposed as part of the subject development application. Appropriate conditions requiring the remediation of the site to be carried out in accordance with the Remediation Action Plan submitted with the subject development application and a Validation Report to be submitted prior to occupation of residential aged care facility and/or the child care centre should be imposed on any consent granted.

5. 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 provides guidance for design and assessment of seniors living housing developments. The proposed development is defined as a “*residential care facility*” under the SEPP. Clause 11 of the SEPP defines a residential care facility as:

“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.”*

Given the subject site is zoned primarily for urban purposes (i.e. Residential ‘C’ under MLEP 2001) a residential care facility is a permissible form of development for the site under the SEPP.

(i) Location and access to facilities (Clause 26)

Pursuant to the SEPP a consent authority must not consent to a seniors housing development unless it is satisfied that the proposed development has access to certain services and facilities. Evidence must be provided with any development application that the subject site is located in an area which has reasonable access (including distance and gradient) to the prescribed services and facilities.

The applicant made the following submission having regard to the location of and the availability to services and facilities:

“The proposed development is not located within 400 metres of shops, however there is a bus stop located directly outside the site on Illawarra Road which may be utilised by residents requiring shopping or banking facilities. A Woolworth’s supermarket and other stores are located approximately 900 metres in a westerly direction up Illawarra Road and can be accessed via this bus route. It should however be noted that residents are frail aged and need a high level of care. They are unable to make independent visits to the shops and commercial facilities. The residential care facility will be staffed by a medical care team and support staff. Community and recreational facilities will also be provided on site.”

As pointed out by the applicant above, there is a bus stop located on either side of Illawarra Road directly in front of the subject site. Regular and frequent bus services attend those bus stops ensuring residents will be able to access retail, commercial and community services in accordance with the requirements prescribed under the SEPP. However, as also pointed out by the applicant above, given the residents of the proposed residential care facility require a high level of care they are unable to make independent visits to shops and commercial premises.

In light of the above, the proposed development is considered reasonable having regard to Clause 26 of the SEPP.

(ii) Water and Sewer (Clause 28)

Pursuant to the SEPP a consent authority must not consent to a seniors housing development unless it is satisfied that the development will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.

The proposed residential care facility is to be connected to a reticulated water and sewage system.

(iii) Site Analysis (Clause 30)

Pursuant to the SEPP a consent authority must not consent to a seniors housing development unless it is satisfied that the applicant has taken into account a site analysis prepared in accordance with details prescribed under this clause.

The applicant made the following submission having regard to the site analysis undertaken as part of the proposed development:

“A detailed survey plan and site analysis plan with appropriate notations has been prepared in accordance with Clause 30 of the Seniors Living SEPP and is provided as part of the Master Plan. This plan, prepared for site master planning purposes, identifies the characteristics of the site and surrounding area to ensure that an appropriate design response is achieved. The site analysis plan portrays the location of the proposed development in relation to the site dimensions and property boundaries. Open space areas and landscape characteristics as well as street frontage features are also included. The location of vehicular access and surface parking is also articulated on the plans.”

As pointed out by the applicant above, a detailed site analysis was submitted as part of the comprehensive Master Plan prepared by Allen Jack and Cottier (AJ+C) and submitted as part of the subject development application. The site analysis provided as part of the subject development application included a written statement which explained the manner in which the proposed development responded to the site analysis.

Given the above, the proposed development is considered reasonable having regard to Clause 30 of the SEPP.

(iv) Neighbourhood Amenity and Streetscape (Clause 33)

Clause 33 of the SEPP prescribes that:

“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 applicant made the following submission having regard to the impact that the proposed development would have on neighbourhood amenity and streetscape:

“The proposed development retains the existing heritage listed quarry face and stone wall, and has been designed to provide public access to view the quarry face via Warne Place. Sightlines to the quarry face are also available from the Thornley Street elevation and down from Hampden Street. The existing barbed wire fence is to be replaced by a sympathetic palisade fence in keeping with the character of the wall. The residential care facility will include external finishes that complement the character of the neighbourhood, being constructed of materials and colours that are sympathetic to the quarry cutting and other developments in the vicinity.

The bulk and scale of the development is also sympathetic to the quarry site, with the 4 storey building elements located to the eastern end of the site closer to the quarry cutting and the 2 storey child care building closer to Illawarra Road. This setback from Illawarra Road means that although the aged care facility buildings are larger than adjacent residential development, they do not dominate the streetscape.

Landscaping within the semi public harbour space has been designed to complement the building form.”

Given the site is located in an area which generally consists of single storey dwelling houses a development of this scale is clearly out of character with the surrounding development. Having said this, the bulk and scale of the proposed development is considered to appropriately respond to the site conditions and the architectural design is considered to be sympathetic to the finer grain detail of the neighbouring and surrounding dwelling houses.

The vision for the site as expressed under Marrickville Development Control Plan No. 40 – Warne Place, South Marrickville is for a *“well integrated but distinctive development”* where *“contemporary design will be encouraged, provided they can be seen as ‘good neighbours’ with each other and the adjoining development”*. The proposed development is considered to respond to the vision of the site as expressed in DCP 40 for the following reasons:

- The proposed development is a well integrated, distinctive/contemporary infill development that responds to the unique site opportunities and constraints provided by this former quarry;
- Whilst the scale of the development is significantly greater than that of the surrounding development, the architectural form proposed attempts to reduce the visual bulk of the proposed development with the implementation of a varied material palette. Furthermore, whilst the proposal is for a relatively large residential care facility, the proposal achieves a degree of compatibility with the surrounding low density residential development with roof detailing and the activation of the facades with windows and balconies which respond to the residential character of the surrounding area;
- The proposed development provides generous boundary setbacks which minimise visual bulk and associated impacts (overshadowing, loss of privacy etc) for residents of adjoining and surrounding dwelling houses;
- Extensive landscaping is proposed both in and around the site which will accentuate the proposed development and provide high quality recreation settings;
- The building form and siting responds to the site conditions with the taller (4 storey) buildings located at the rear of the site adjacent to the high walls of the quarry, and the lower buildings in the northern portion of the site which ensure a high level of solar access is provided to the residential care facility, while overshadowing impacts on adjoining properties are minimised; and
- The proposed development adopts a height at the street frontage which is compatible with that of adjoining development.

Given the above, the proposed development is considered reasonable having regard to the neighbourhood amenity and streetscape controls contained prescribed under Clause 33 of the SEPP.

(v) Visual and Acoustic Privacy (Clause 34)

Clause 34 of the SEPP prescribes that:

“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.”*

The applicant made the following submission having regard to the impact that the proposed development would have on visual and acoustic privacy:

“The proposed development is unlikely to adversely impact on the visual privacy of nearby residents. Fixed aluminium louvers have been used in the design of the development to aid in preserving visual privacy for both residents and neighbours. Additionally, the closest neighbours to the development are located over 25 metres away on Thornley Street and Hampden Avenue.

The development is also unlikely to impact on the acoustic privacy of nearby residents. Residential care facilities by their nature create little external noise. The majority of the car parking, loading facilities and bin storage areas are located in the basement level of the development, therefore minimising noise impacts to neighbours.

A comprehensive acoustic assessment has been undertaken regarding the potential noise impacts from the proposal as well as the effect of any surrounding noise sources on the amenity of the aged care facility.”

It is considered that the proposed development would not result in an unacceptable impact on the visual and/or acoustic privacy enjoyed by residents of adjoining or surrounding development for the following reasons:

- The subject site is generally surrounded by public roads, with Illawarra Road forming the north western boundary, Thornley Street forming the south western boundary and Hampden Avenue forming the south eastern boundary. Given the site is generally surrounded by public roads, the site is well separated from adjoining uses that are sensitive to a loss of visual and acoustic privacy. Furthermore, given the subject site is a former quarry which was cut into the hillside, three of the four boundaries consist of high exposed walls of the quarry;
- The buildings to be erected on the subject site are provided with generous setbacks from the property boundaries;
- As pointed out by the applicant above, fixed aluminium louvers have been used in the design of the development to aid in preserving visual privacy for both residents and neighbours; and
- Having regard to the protection of acoustic privacy the applicant submitted an Acoustic Assessment Report prepared by Environmental Resources Management Australia which states that subject to the installation of noise control mitigation measures the proposed development would not result in an unacceptable impact on the acoustic privacy enjoyed by residents of adjoining and/or surrounding properties.

(vi) Solar access and design for climate (Clause 35)

Clause 35 of the SEPP prescribes:

“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.*

The layout and design of the proposed development ensures that the living rooms, activity rooms, bedrooms, and courtyard areas provided in the residential care facility receive appropriate levels of solar access. To this extent it is noted that the buildings provided in the northern portion of the site are no greater than two (2) storeys in height whilst the buildings located in the southern portion of the site are four (4) storeys in height. The manner in which building bulk is distributed around the site ensures overshadowing impacts are minimised whilst solar access to the residential care facility and communal courtyard areas is maximised.

The applicant submitted shadow diagrams which indicate the shadow impact of the proposed development at 9.00am, 12.00 noon and 3.00pm at the winter solstice. The shadow diagrams indicate that the shadows cast by the proposed development will generally strike the walls of the quarry and as such the proposed development will not result in any significant shadow impacts for residents of adjoining or surrounding development.

(vii) Stormwater (Clause 36)

Clause 36 of the SEPP prescribes:

“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 proposed development has been considered by Council's Development Engineer who raised no objection to the proposed development subject to the imposition of appropriate conditions, including a condition which requires detailed plans of the proposed stormwater re-use system whereby stormwater is to be re-used for irrigation and toilet flushing to be submitted to and approved by Council before the issue of a Construction Certificate.

Given the above the proposed development is considered reasonable having regard to Clause 36 of the SEPP.

(viii) Crime Prevention (Clause 37)

Clause 37 of the SEPP prescribes:

“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.”*

The applicant made the following submission having regard to the manner in which the proposed development has been designed to prevent crime:

“The development has been designed so that casual surveillance of the central courtyard will occur from the bedroom windows. On the second and third floors of the development there are also bedroom windows that look east towards the quarry, allowing for observation of the space between the facility and the cliff face. Low level lighting will be provided within the site to illuminate pathways. Appropriate lighting will also be provided to the car parking/entrance area and basement. In addition, staff will be in attendance at the facility 24 hours a day/seven days a week.”

The layout and design of the proposed development is considered to be appropriate having regard to crime prevention of the following reasons:

- The layout and design of each of the four (4) wings which make up the residential care facility ensures surveillance is provided over the central courtyard, the harbour and the setback areas;
- The principal entry to the residential care facility is considered to be appropriately located and well defined;
- Underground security car parking is provided in the basement with internal access provided via a lift; and
- As pointed out above, the applicant intends to install low level lighting throughout the development.

A condition requiring details of such lighting to be submitted to and approved by the Certifying Authority should be imposed on any consent granted. Subject to the above, the proposed development is considered reasonable having regard to Clause 37 of the SEPP.

(ix) Accessibility (Clause 38)

Clause 38 of the SEPP prescribes:

“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 applicant made the following submission having regard to accessibility:

“The proposed development has a legible single entrance and pedestrian pathway from Illawarra Road into the facility. A continuous path of travel at an appropriate grade is provided between the street, the open space areas, and the residents' living areas. The site's external path system and internal corridors satisfies the requirements of the Seniors Living SEPP.

Sufficient parking for visitors and staff is provided in the underground car park with lift access from the basement to the development. The basement car park and waste area are conveniently accessed from Warne Place, while the porte cochere provides access to the resident pick up/drop off area at reception.”

The layout and design of the proposed development is considered to provide obvious, safe and convenient paths of travel both within the site and in accessing Illawarra Road.

Vehicular access to the basement level of car parking is provided via a straight driveway which forms an extension of Warne Place. Staff and visitors who park in the basement level of car parking are provided with internal access to the foyer of the residential care facility via a lift which is also designed to cater for people with a disability.

For pedestrians arriving by foot, a level pedestrian path which runs parallel to Warne Place and the internal driveway provides direct access to the principal entry and front foyer of the residential care facility. The principal entry is well defined and would be highly visible from Illawarra Road particularly given a porte cochere is to be established directly in front of the entry.

Given the above, the vehicular and pedestrian access associated with the proposed development is considered acceptable.

(x) Waste Management (Clause 39)

Clause 39 of the SEPP prescribes:

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

The applicant made the following submission having regard to waste management in the Statement of Environmental Effects submitted with the development application:

“The proposed service area is located adjacent to the bus parking and loading areas. This designated area will be of sufficient size to house waste products generated from the facility and provide for both waste disposal and recycling facilities. Wet waste (food) will be separated from dry waste in the storage bins provided. The frequency at which the bins will be removed will be managed in line with the size of the bins in proportion to generated waste. In addition, specialised medical and sharps waste systems will be put in place. A specialist contractor will be employed to dispose of this waste appropriately in accordance with legal requirements.”

As identified by the applicant above, a waste storage area is to be established in the north-eastern corner of the site. The waste storage area is considered to be appropriately located with landscaping to be established around the perimeter of the area to ensure it is not unsightly.

A condition requiring a Site Waste Management Plan prepared in accordance with Council's requirements to be submitted to and approved by Council prior to commencing work on Stage 2 of the development should be imposed on any consent granted.

(xi) Development Standards – Minimum Sizes and Building Height (Clause 40)

Pursuant to the SEPP a property must be at least 1,000sqm in area and be 20 metres wide (measured at the building line) to be suitable for development. The subject site has a site area of 7,434sqm and a 47.1 metre frontage to Illawarra Road thereby meeting the requirements prescribed under Clause 40 of the SEPP.

(xii) Standards that cannot be used to refuse development consent for residential care facilities (Clause 48)

Clause 48 of the SEPP prescribes that a consent authority must not refuse consent to a development application for a residential care facility if the development satisfies that following numerical controls:

| Control | Standard | Proposed | Compliance |
|-----------------|--|--|-------------------|
| Building Height | 8 metres | 13.2 metres | No |
| Density (FSR) | 1:1 | 1.11:1 | No |
| Landscaped Area | 25sqm per bed 120 beds = 3,000sqm | 4,220sqm | Yes |
| Car Parking | 1 space per 10 beds; 1 space per 2 employees; and 1 space suitable for an ambulance Car Parking Required – 48 spaces + and ambulance bay | 48 spaces and ambulance parking is available in the porte cochere | Yes |

As indicated above the proposed development fails to satisfy the numerical controls for building height and density as identified under Clause 48 of the SEPP. Those issues are considered below:

Building Height

As indicated above, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 prescribes that a consent authority must not refuse consent to a development on the basis of height if the proposed development has a building height which is less than 8 metres. The proposed development ranges in height from two (2) storeys to four (4) storeys and achieves a maximum height of 13.2 metres. Whilst exceeding the height control prescribed under Clause 48 of the SEPP the height of the proposed development is considered reasonable given the building heights encouraged/permitted under the site specific development control plan which applies to the site (DCP 40). See comments under Heading 7(iv) below. It is further noted that the subject control is not a development standard per se but rather is a control that cannot be used to refuse an application where the control is satisfied.

Density

As indicated above, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 prescribes that a consent authority must not refuse consent to a development if the density and scale of the building when expressed as a floor space ratio is less than 1:1. The proposed development exceeds this control having a FSR of 1.11:1. Whilst exceeding the density control prescribed under Clause 48 of the SEPP the density of the proposed development is considered reasonable given the floor space ratio permitted under MLEP 2001 (Amendment No. 12) and the site specific development control plan which applies to the site (DCP 40). See comments under Headings 6(v) and 7(iii) below. It is further noted that the subject control is not a development standard per se but rather is a control that cannot be used to refuse an application where the control is satisfied.

6. Marrickville Local Environmental Plan 2001 (MLEP 2001)

(i) Zoning (Clause 12)

The subject property is currently zoned Residential 'C' under Marrickville Local Environmental Plan 2001 (Amendment No. 12).

The residential care facility proposed on the rear portion of the site is permissible with Council consent under the zoning provisions contained in MLEP 2001 and State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Under MLEP 2001 'child care centres' are permissible with Council's consent in the Residential 'C' zone.

The proposed development complies with the objectives for the zone under Marrickville Local Environmental Plan 2001.

(ii) Aircraft Noise (Clause 28)

The subject property is not located within an area bounded by the 20 Australian Noise Exposure Forecast (ANEF 2029) Contour. As such pursuant to Clause 28 of MLEP 2001 the proposed development is not required to be noise attenuated in accordance with Australian Standard AS2021-2000 - Acoustics - Aircraft Noise Intrusion-Building Siting and Construction.

(iii) Flood Prone Land (Clause 29)

The subject site is located in the Cooks River Flood Zone and as such Council must consider Clause 29 of MLEP 2001. The application was referred to Council's Development Engineer who raised no objection to the proposed development subject to the imposition of appropriate conditions. Those conditions should be imposed on any consent granted.

(iv) Child Care Centres (Clause 42)

Clause 42 of MLEP 2001 requires consideration to be given to certain matters before granting development consent to use premises for the purposes of a child care centre. To this extent the following matters need to be considered:

- (a) *Access to and within the site, incorporating principles of safety and provision for people with disabilities, in the design of driveways, car parking, and pedestrian drop off and pick up areas.*

The applicant made the following submission having regard to the requirements of Clause 42(a) of MLEP 2001:

"The primary entrance to the proposed child care development is located from the harbour. Direct pedestrian access is provided to the centre from the drop off parking spaces in Warne Place. The harbour structure will provide undercover shelter in the event of inclement weather. This access is at grade from the drop off car spaces and is navigable by persons in a wheelchair or pushing a pram.

Access to the child care centre is also provided via a lift from the basement car park. This mode of access will primarily be utilised by staff of the centre and parents arriving for longer stays at the centre. It is also anticipated that some parents will live in the immediate area and will arrive with their children on foot.

The arrangement of parking in Warne Place allows clear sightlines to the child care centre entrance. Access to the centre will be provided via a secure door. Parents will have to enter an access code or buzz staff to gain access to the centre.

Five drop off car spaces will be provided and 18 of the 81 basement car spaces will be allocated for use by child care centre staff or parents. The number of car spaces provided is consistent with the level of parking provision specified in Marrickville DCP 19 – Parking Strategy.”

As pointed out by the applicant above, five (5) drop off and pick up spaces directly accessed from Warne Place are provided adjacent to the proposed child care centre, whilst a further eighteen (18) car parking spaces are provided in the basement level of car parking. The level of car parking satisfies the controls contained in Marrickville Development Control Plan No. 19 – Parking Strategy (DCP 19).

The principal entrance to the proposed child care centre fronts the harbour (which is the courtyard area that separates the child care centre from the residential aged care facility which contains pergola structures and plantings) with disabled access provided from both the drop off and pick up spaces as well as from the car parking spaces provided in the basement level of car parking. Staff and parents seeking to utilise the basement level of car parking will be provided with access control cards which will permit access into the secure basement level of car parking. A passenger lift will provide access to the ground floor foyer from which parents and staff are able to access the child care centre via the harbour.

A secondary disabled accessible pedestrian entrance to the child care centre is also provided on the Illawarra Road frontage.

Overall the proposed development is considered reasonable having regard to access, car parking and provision for people with disabilities.

(b) Whether there is provision for adequate off street parking.

The issue of car parking is addressed above and under Heading 8(i) below.

(c) The impact of aircraft noise.

The subject property is not located within an area bounded by the 20 ANEF (2029) Contour.

(d) The protection of adjoining and surrounding owners from excessive noise.

As the subject site is a former quarry, the proposed child care centre is well separated from the residential development located to the south east of the subject site. The proposed child care centre is also well separated from the sensitive land uses located to the north/north east of the site and as such it is considered unlikely that the operation of the child care centre would have an unreasonable impact on the residential amenity of the surrounding area.

(e) Contamination.

The issue of contamination is addressed under Heading 4 above.

(f) Landscaping and fencing.

The applicant provided and indicative fencing and landscape plan for the proposed child care centre. Open palisade fencing is proposed to be erected around the perimeter of the play area with extensive plantings to be provided. However, the landscape plan submitted with the subject development application indicates that the layout and design of the play area and associated landscaping will be the subject of a future development application and will be dependant on the tenant's specification.

(v) Floor Space Ratio (Clause 45 & Amendment 12)

MLEP 2001 (Amendment No. 12) provides specific floor space ratio (FSR) controls for the subject site. The FSR controls encourage the amalgamation of sites by virtue of an increasing FSR dependant on the size of the site amalgamation. As described under MLEP 2001 (Amendment No. 12):

"The maximum floor space ratio of all buildings after development is carried out is:

- (a) 0.75:1 if the development is carried out on a site with a total area of 1,500 square metres or less, or*
- (b) 1.0:1 if the development is carried out on a site with a total area of more than 1,500 square metres, but less than 6,000 square metres, or*
- (c) 1.2:1 if the development is carried out on a site with a total area of 6,000 square metres or more, except as provided by paragraph (d), or*
- (d) 1.5:1 if the site area consists all of the land described opposite in Column 1, all of that land is amalgamated into one allotment and the development relates to the whole of the site area."*

The proposed development is to be carried out on a site which has an area of approximately 7,434sqm. To be eligible for the maximum FSR permitted under the terms of MLEP 2001 (Amendment No. 12) all the land within the Warne Place Master Plan area needs to be amalgamated in order to achieve the FSR of 1.5:1. As the site of the subject development does not include the two (2) allotments located on the corner of Illawarra Road and Thornley Street, the maximum permissible floor space ratio for the development is 1.2:1.

The proposed development has a gross floor area (GFA) of approximately 8,258sqm resulting in a FSR of 1.11:1 thereby satisfying the subject development standard.

(vi) Heritage (Clauses 47 to 55)

The quarry face and stone retaining wall which are located on three (3) sides of this site are listed as a heritage item under MLEP 2001 (Item No. 3.27).

The site is also located in the proximity of other heritage items prescribed under MLEP 2001 including the Schwebel Family Quarry and stone house (520-556 Illawarra Road and 560 Illawarra Road) and a Federation era house at 28 Thornley Street.

The applicant submitted a Heritage Impact Statement (HIS) and Conservation Management Plan prepared by Architectural Projects Pty Ltd as part of the subject development application. The HIS makes the following submission having regard to the heritage impact of the proposed development:

"The current proposal addresses the heritage concerns generally as follows:

- It is located within the DCP setbacks.*

- *The indents to the building articulate the mass.*
- *Potential for recessed verticals in building to be reinforced in vertical windows.*
- *The stair articulates the building and links to open communal areas.*
- *The stair as glazed element allows viewing and interpretation of the quarry.*
- *Open communal lounge facing north provides scope to view the quarry from a reasonable distance.*
- *Glazed Corridor link articulate the building and provides opportunity to view and interpret, look through to quarry and to central court.*
- *Windows occur at end of corridors and provide views to landscape while providing screening from adjacent building.*
- *The pergola over the 1 storey wing defines DCP 40 Master Plan requirements of a defined vista.*
- *The child care garden to Illawarra Road reinforces the defined vista.*
- *Eden Room has potential to exist as a room with courtyards to all sides and appear as a building in a much bigger courtyard with a view to the quarry.*
- *The lightweight treatment of the entry porte cochere and entry contrast to the masonry character of the main buildings and reinforces the orthogonal massing.*
- *The massing of the proposed development is located away from Hampden Street (as proposed in Council's Master Plan of the site) to provide more visibility to the Heritage items."*

The application was referred to Council's Heritage and Urban Design Advisor who provided the following comments:

"Heritage issues:

Landscaping

The landscape plan in its current form does not conserve the significance of the quarry face. The placement of screening shrubs and trees against the quarry face obscures its visibility and therefore reduces its significance at the site.

All planting other than low ground cover, should be set back from the quarry face with the aim of maximising its exposure as viewed from on and off the site.

.....At the subject site, limited areas of groundcover up to the quarry face would be acceptable. Generally shrubs, palms and tall narrow trees should be placed closer to the building so that the entirety of the quarry can be clearly seen. Any landscape features placed in close proximity to the rock face would need to demonstrate that they did not detract from the visibility or interpretability of the quarry. The landscape design should treat the rock face as the main feature - the space between the building and the quarry should not be filled or cluttered with other features.

The planting at the north east and south east corners of the site should not obscure views of the quarry wall curving around the site.

Interpretation

An allowance should be made for on site interpretation of the historic qualities of the site, in the form of an installation, or at the least a plaque.

Building Setback (from the quarry face)

The building setback of approximately 14 metres is adequate, and should not be encroached upon if adjustments to this scheme are put forward.

Fencing

The existing steel fence is staining the rock wall with rust. If a new fence is required, it will need to minimise fixings to the heritage rock wall, and be of a stable, non staining material.

Driveway/car park entry

The entrance to the basement car park is almost at the rear of the site, because of this, a high degree of landscaped area is consumed by the length of the driveway. The north east corner, and north wall of the quarry (the highest and therefore most dramatic side of the quarry) is therefore under appreciated by its proximity to the driveway, and the ramp, loading bay, bus park, and bin store, which all impinge on the quality of the landscape in that area. The car-park entrance should be brought forward on the site.

Recommendation

The design is supported subject to the aforementioned adjustments to the proposal."

The comments provided by Council's Heritage and Urban Design Advisor were forwarded to the applicant for consideration. The applicant subsequently provided an updated landscape plan in which reduced plantings are now proposed directly adjacent to the wall of the quarry. The Landscape Architect made the following submission in describing the landscaping proposed to be established adjacent to the walls of the quarry:

"The Quarry courtyard is a mix of both formal and informal planting with the Quarry Wall a dominant feature. The use of exotic, deciduous tree species provide seasonal colour and shade in the space and will provide a changing outlook to the wall from the overlooking rooms. The Quarry wall should be up lit, with the play of light on the cracks and crevices becoming a sculptural feature in itself. Separate access to the curtilage area is provided to the North West of the space to allow for external visitors to the site. This access point allows for interpretive signage or signifier indicating the importance and relevance of this space."

Furthermore, the Landscape Architect provided a photomontage which indicates the relationship between the plantings to be established in the rear courtyard and the quarry face wall (see image 12 below).

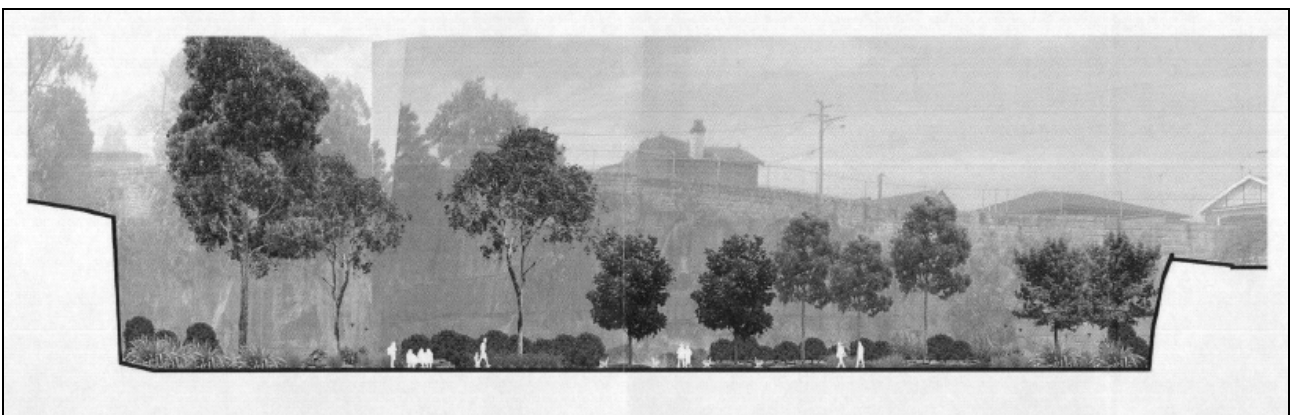


Image 12 – Photomontage indicating the relationship between the plantings to be established in the rear courtyard and the quarry face wall

The level and type of plants and shrubs to be established adjacent to the quarry face wall are considered to strike an appropriate balance between providing a landscaped setting for the proposed residential care facility and ensuring direct and unrestricted views of the heritage item are maintained.

The applicant also identified that palisade fencing is proposed to be erected on top of the sandstone wall in accordance with the requirements contained in DCP 40. A powder coated palisade fence is considered appropriate as it will ensure ongoing impacts on the heritage walls are minimised. A condition requiring final details of the perimeter fencing to be submitted to and approved by Council's Heritage and Urban Design Advisor before the issue of the Construction Certificate should be imposed on any consent granted.

To ensure allowance is made for an on site interpretation of the historic qualities of the site, a condition requiring an Interpretation Plan to be submitted to and approved by Council should be imposed on any consent granted.

Whilst Council's Heritage and Urban Design Advisor raised concern with the long driveway proposed along the north eastern boundary of the site, the driveway is considered reasonable for the following reasons:

- A Council stormwater pipeline bisects the subject property. As part of the subject development application the applicant seeks to re-route part of the stormwater pipeline such that it will run under the arbour that separates the child care centre from the residential care facility. The existence of this stormwater pipeline inhibits the ability of providing a basement level of car parking at the front of the site. Furthermore, given the applicant's desire to provide a well defined entry and porte cochere to service the residential care facility, the location of the entry to the basement level of car parking is considered acceptable; and
- Given the driveway extends along the north eastern boundary it provides an unsecured vantage point in which to view the quarry face wall. Furthermore, the openness of the driveway would allow the quarry face to be viewed from Illawarra Road and Warne Place.

Given the above, and subject to the imposition of appropriate conditions, the proposed development is considered reasonable having regard to heritage.

(vii) Protection of Trees (Clause 56)

Clause 56 of MLEP 2001 concerns the protection of trees under Council's Tree Preservation Order. There are no trees on the property covered by under Council's Tree Preservation Order.

(viii) Acid Sulfate Soils (Clause 57)

The proposed development is within an area identified as being subject to acid sulfate soil risk. Clause 57 of MLEP 2001 requires that before consent is granted, Council must consider a preliminary soil assessment which ascertains the presence or absence of acid sulfate soils. The applicant submitted a Remediation Action Plan prepared by Environmental Resources Management Australia Pty Ltd as part of the subject development application which reads in part:

"ASS Risk Maps (Department of Lands, ASRIS Database) identified the site as being located in a medium to high risk ASS area. As such, ERM undertook ASS sampling

as a precautionary measure. The results of the ASS field and laboratory analysis were compared to the NSW Acid Sulfate Soils Management Advisory Committee (ASSMAC) (1998) Acid Sulfate Soils Assessment Guidelines.

A number of samples collected from various depths across the site exceeded the criteria for PASS and therefore trigger the requirement for a management plan as detailed in the ASSMAC guidelines...All PASS was identified in fill material.

One location, BH08, also exceeded the ASSMAC guidelines based on existing acidity, which indicates that material associated with this sample may be ASS and may already be partly oxidised. It should be noted that during site investigations, fill material was predominantly identified across the site which is consistent with historical quarry excavation and infilling activities. The lithology/geomorphology identified across the site is not typical of ASS areas (e.g. estuarine or swampy anaerobic 'peaty' soils). It is recommended that an ASS Management Plan be prepared."

Having regard to the treatment and management of ASS and PASS the Remediation Action Plan prepared by Environmental Resources Management Australia Pty Ltd as part of the subject development application reads (in part) as follows:

"In general, if material is to be stockpiled for more than two days (or one day for sandy soils), material containing ASS or PASS will ideally be stockpiled separately on a liming pad / stockpiling area and mixed with a neutralising agent (e.g. lime) at the specified dosage rate.

The area where the former tennis courts were located is a hardstand area and is the preferred location as the designated holding / treatment area for ASS. Treatment at the holding area will be undertaken with treatment cells / areas. Each cell / area will be bunded and the bund walls lined with an anchored geotextile or plastic sheeting liner to minimise erosion and direct impact by the ASS and leachate. The bunds will also minimise surface water runoff from or into the treatment areas. At the base of each treatment area, a layer of aglime or granular lime at least 100mm thick will be placed over the underlying soil so as to provide further safeguards against any leachate generated during treatment which is not fully neutralised by the lime treatment. The segregation of treatment areas will also allow for the management, tracking and documentation of materials based on their waste.

Once ASS material has been placed in the treatment areas/cells, it will be dosed progressively with lime in accordance with the calculated dosing rate determined through the SPOCAS results. This will be followed by thorough mixing of the soil / lime mixture with site machinery to treat the soil. Additional quantities of lime above the calculated dosing rate may be required to allow for difficulties in mixing.

Treatment of PASS/ASS may also be conducted using a mobile (containerised) twin shaft mechanical batch mixing unit (pugmill). The plant and loading area containing this unit will be bunded in a similar manner to the treatment cells described above, similarly a tracking system will be implemented as per the treatment cell option. Dosing with lime or other neutralising agents will be conducted in accordance with the dosing rate determined through the SPOCAS results for soils collected from the site. The effectiveness of the adopted dosing rate will be confirmed by the regular screening of the treated material using pH and peroxide pH field tests.

Any leachate generated during the treatment operations will be directed to collection ponds and appropriately treated or disposed offsite in accordance with relevant guidelines and licence requirements.

Depending on the final treatment method adopted, field pH and peroxide pH testing and laboratory analysis will be conducted on treated materials prior to disposal and will supplement any sampling required for contamination. If material fails the pH and peroxide pH testing or laboratory analysis, further dosing with lime will be conducted prior to disposal until the material meets the pH testing criteria.

All treated soil will be removed from the holding area. The site will be rehabilitated to existing conditions immediately following successful treatment and removal of all ASS materials. Soil sampling will be undertaken after rehabilitation to validate that there has been no impact to the treatment site."

A condition requiring the storage, treatment and disposal of any ASS and PASS in accordance with the measures outlined in the Remediation Action Plan that was submitted as part of the subject development application should be imposed on any consent granted.

(ix) Waste Management (Clause 58)

Clause 58 of MLEP 2001 requires consideration of waste management for any proposed development. There is considered to be sufficient area within the site to allow for the storage of garbage bins. While the applicant submitted a Waste Management Plan for the on-going waste practices of the aged care facility, no details were provided for the on-going waste practices of the child care centre. Furthermore the no details were provided on the type, volume and disposal methods of materials to be generated during demolition and construction of the various stages of the development.

Accordingly, a condition requiring a Site Waste Management Plan prepared in accordance with Council's requirements to be submitted to and approved by Council prior to commencing work on each stage of the development should be imposed on any consent granted.

(x) Energy, Water & Stormwater Efficiency (Clause 59)

Clause 59 of MLEP 2001 requires consideration to be given to the energy, water and stormwater efficiency of any proposed development. The applicant submitted an ESD Report prepared by EMF Griffiths Pty Ltd as part of the subject development application. The ESD report indicates that the proposed development satisfies the objectives and controls contained in Marrickville Development Control Plan No. 32 – Energy Smart Water Wise (DCP 32) and outlines a comprehensive ESD strategy for the proposed residential care facility. A condition requiring the installation of energy efficient fixtures in accordance with the recommendations contained in the ESD Report submitted with the subject development application should be imposed on any consent granted.

(xi) Landscaping and Biodiversity (Clause 60)

Clause 60 of MLEP 2001 requires consideration be given to conservation of biodiversity as is of relevance to the subject application. The subject site does not contain any significant native vegetation and the applicant submitted a landscape plan as part of the subject development application which identifies that extensive plantings are to be provided throughout the site. The landscaping proposed as part of the subject development application is considered appropriate for the following reasons:

- The proposed distribution and embellishment of spaces generally provides an appropriate transition from the street front to communal recreation courtyards;
- Planted areas incorporate a mix of canopy trees, shrubs and ground covers which provide attractive backdrops to proposed buildings and recreation courtyards, as well as promoting the identity of different precincts within the site;
- Paved areas and hard surfaces contribute to the quality and identity of recreation settings, and incorporate a variety of activity settings; and
- The landscape design does not generate any problems in relation to safety or security.

(xii) Community Safety (Clause 62)

Clause 62 of MLEP 2001 requires consideration to be given to community safety before granting development consent. To this extent the following matters are to be considered:

- “(a) the provision of active street frontages where appropriate,
 (b) the provision of lighting for pedestrian site access between public and shared area, parking areas and building entrances,
 (c) the visibility and legibility of building entrances from streets, public areas or internal driveways.”*

The child care centre with associated outdoor play area proposed as part of the subject development provides an active facade to Illawarra Road. The layout and design of the residential care facility ensures casual surveillance over the numerous street frontages. The principal entrance to the residential care facility is considered to be appropriately located and well defined.

The applicant submitted a Crime Risk Assessment Report prepared by Martins Crime Consultancy as part of the subject development application. That report makes recommendations that aim to ensure the completed development contains open and clear spaces which are safe and secure for residents and visitors alike. A condition requiring the installation of the safer design recommendations contained in the Crime Risk Assessment Report submitted with the subject development application should be imposed on any consent granted.

Subject to the above, the proposed development is considered to satisfy the community safety provisions contained in MLEP 2001.

(xiii) Accessibility (Clause 64)

Clause 64 of MLEP 2001 requires consideration to be given to accessibility before granting development consent. This issue is considered in details under Heading 9 below.

7. Marrickville Development Control Plan No. 40 – Warne Place South Marrickville (DCP 40) and the relevant provisions of Marrickville Development Control Plan No. 35 – Urban Housing (Volume 2) (DCP 35)

(i) Development Master Plan

DCP 40 prescribes that:

“For all significant development, you should prepare a comprehensive Master Plan for the whole site, not just for your land. The master plan is to fully illustrate the

concept of the proposal on your land and for the site as a whole and show how environmentally sustainable design aspects have been satisfied by you.

.....The Master Plan should clearly show and explain the building bulk, scale and form of your development, the open space and landscaping proposed, heritage conservation measures, access, parking and pedestrian and cycling circulation arrangements and how you propose to satisfy this DCP's objectives and design controls."

The applicant submitted a comprehensive Master Plan prepared by Allen Jack and Cottier (AJ+C) as part of the subject development application. The Master Plan provides a holistic perspective for the redevelopment of the site which responds to the objectives and controls contained in DCP 40 whilst recognising the opportunities and constraints that influence the development of the site for the purposes proposed as part of the subject development application.

The Master Plan submitted with the subject development application details the key variations from the indicative Master Plan contained in DCP 40 and provides a rationale for those departures.

DCP 40 prescribes that any Master Plan prepared for the site must be subject to a Peer Review. In accordance with the requirements contained in DCP 40 Council engaged Brett Newbold Urban Planning and Urban Design to undertake the peer review.

In conducting a peer review of the subject Master Plan Brett Newbold Urban Planning and Urban Design came to the following conclusions having regard to applicant's Master Plan:

"In its current form, the applicant's Master Plan is not satisfactory for several reasons:

- In technical terms, it fails to provide comprehensive responses to the matters which are specified by DCP No 40:*

There is no comprehensive assessment of compliance with objectives and design elements. Departures from the provisions of DCP No 40 are not described completely or accurately. Overall, the discussion of compliance is simplistic and lacks the appropriate level of detail having regard for scale of the proposed development as well as for the Council's strategic planning efforts in relation to this precinct.

Finally, responses to technical issues raised by DCP No 40 are incomplete, and the document does not summarise critical elements of the relevant technical reports.

- In strategic terms:*

With regard the predominantly residential character of the site's surroundings, it does not demonstrate satisfactory understanding of context or specify appropriate architectural responses.

In relation to ESD, it fails to provide detailed energy and water cycle assessments, and proposes no significant "commitments" in terms of systems or management.

With regard to heritage, the detailed technical report fails to address the impacts of significant built form departures from provisions of DCP No 40, and also fails to evaluate or guide important design elements.

In terms of flooding, the technical report fails to address flooding of the proposed basement.

With regard to deficiencies in the current Master Plan, many are of a technical nature and could be resolved by revised documentation or further enquiries:

- Presentation and content of the document;*
- ESD considerations, particularly in relation to energy and water cycle assessments;*
- Heritage assessments generally;*
- Flooding assessment.*

Comprehensive amendment of the Master Plan and supporting documentation is necessary in relation to three significant issues:

- Context, and compatibility with the surrounding area which displays a predominantly low rise residential character.*
- Heritage and impact of buildings facing Hampden Avenue which are up to two storeys taller than anticipated by DCP No 40.*
- Proposed departures from provisions of DCP No 40, of which all must be identified and described accurately as the foundation for a possible consent.”*

In conducting a peer review of the subject Master Plan Brett Newbold Urban Planning and Urban Design made the following conclusions having regard to the architectural form of the proposed development:

“Form and architectural character of the proposed development represent the most-significant design deficiencies:

- Due to the concentration of total floor area into one of the two buildings proposed, mass and scale are “weighted” toward the rear of the site in the proposed aged care facility.*
- Within that rear building, floor area is accommodated by a four level courtyard building with an extended footprint.*
- Heritage impacts of the proposed four storey form facing Hamden Avenue and Thornley Street need further evaluation by technical experts.*
- Within the aged care facility, modular planning of residential units results in cubic building forms with sheer vertical facades and repetition of identical window openings.*
- Location of communal living areas within the aged care facility offers one of the few opportunities for design contrasts by elements such as balconies and curtain wall glazing.*
- Perhaps reflecting the architectural desire to emphasise inherently-cubic forms, the majority of roofs in the proposed development are concealed by level parapets, some of which add the appearance of another storey in height.*
- At the front of the site next to Illawarra Road, the proposed two storey child care facility incorporates exterior design features which are similar to those of the aged care facility.*
- The child care facility effectively turns its back to the street, resulting in a street elevation with small windows that conceal indoor activity, and avoiding the*

opportunity to create a landmark structure which generates high levels of visible activity along street frontage.

- *By contrast to front and rear buildings which display an institutional or commercial design character, the aged care facility's reception and administration building displays much-softer forms that are relatively-compatible with residential character of the site's surroundings."*

The issues raised by Brett Newbold Urban Planning and Urban Design were forwarded to the applicant for consideration. The applicant subsequently submitted amended plans and additional information in line with the comments received during the peer review. Importantly, the applicant made significant amendments to the architectural form to ensure the proposed development responded to the residential character of the surrounding area as opposed to the more institutional/commercial character of the original design. The images below demonstrate the significant amendments that were made to both the architectural form and palette of materials to create a building which better responded to the finer grain detail of the surrounding development.

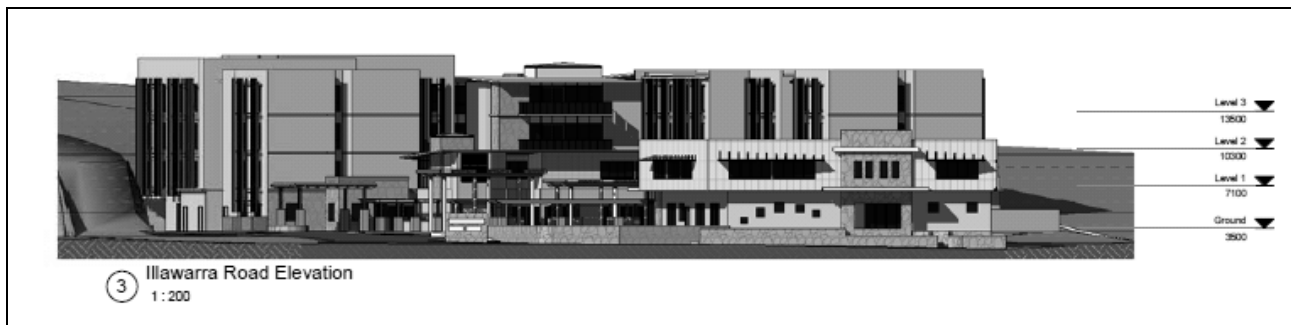


Image 13 – Front (Illawarra Road) elevation as originally proposed

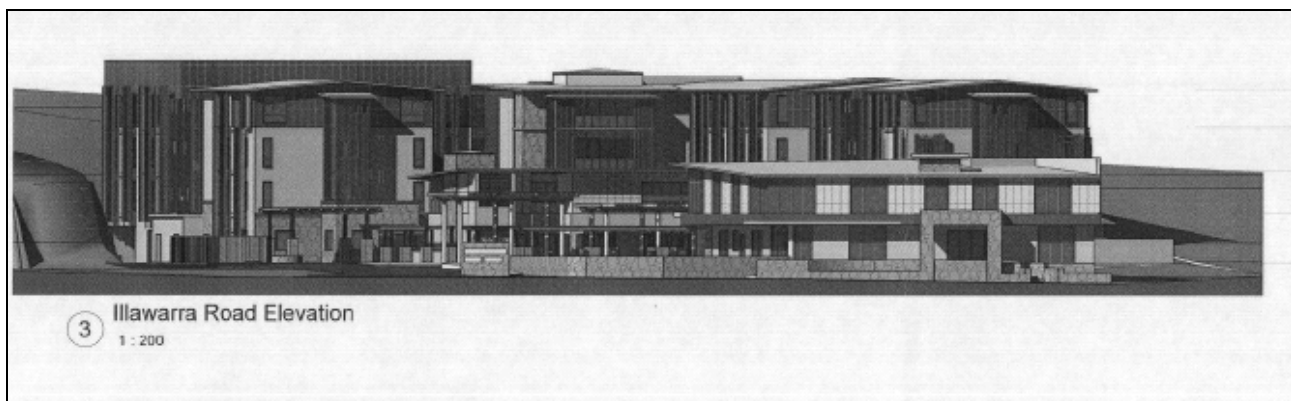


Image 14 - Front (Illawarra Road) elevation as amended

The following amendments were made to the residential care facility in response to the concerns raised during the peer review process:

- The previously proposed parapets were deleted from all roofs, except in the north eastern corner of the site where they are required to conceal air conditioning chillers;
- The applicant amended the roof form to include a mix of gables and skillions with low pitches and wide eaves;
- The planar masonry facades were broken up with balcony elements and structures that are designed to appear similar to balconies;
- At the western end of each building wing the corridors were defined by screened balconies which add interest to those facades;
- The planar facades were updated to incorporate elements which provided more effective “animation” thereby adding interest to the overall appearance of the development;
- The top-most storey was amended to consist of panel cladding to add interest to the overall design and to break up the vertical nature of the facades to reduce visual bulk;
- At the western end of each residential wing, the bedroom units were “rotated” ninety degrees to enable windows to be inserted into walls that were previously blank and which provide prominent street backdrop when the development is viewed from Illawarra Road; and
- The fenestration was varied by employing a combination of square and narrow rectangular windows in order to generate more-animated facades.

The following amendments were made to the child care centre in response to the concerns raised following the peer review process:

- The previously proposed parapets were deleted and replaced by a skillion roof with wide eaves;
- The roof design and form was simplified by removing the top level of stone-clad lobby structure which was originally proposed;
- The planar facades were amended to incorporate elements which provide effective “animation” thereby adding interest to the overall appearance of the child care centre;
- The top-most storey was amended to consist of panel cladding;
- The upper-storey windows were amended to match the tall proportions at corner locations which are a positive feature of the reception building (“the HUB” building);
- The lobby portico was widened and better-integrated with a simplified layout of ramps and stairs;
- The ground floor facade was amended to incorporate a proportion of floor-to-ceiling windows located between light weight panels which would enable them to be converted to shopfronts in future if required; and
- The walls below the ground floor were accentuated by stone-cladding which extends from the lobby portico as a ramp balustrade and walls that protect the outdoor play area.

The above amendments are considered to have significantly improved the general appearance of the subject development scheme. Given the type of use proposed, the scale of the development, and the unique characteristics of the site, it is evident that any development on the site will be distinct when compared to surrounding development. Having said this, it is considered that the proposed development achieves a degree of compatibility with the architectural form of the surrounding low density residential development.

Having regard to the other issues raised during the peer review the following comments are noted:

- Council’s Development Engineer has considered the proposed development and raised no objection having regard to flooding;
- A condition which requires detailed plans of the proposed stormwater re-use system whereby stormwater is to be re-used for irrigation and toilet flushing to be submitted to and approved by Council before the issue of a Construction Certificate has been included in the recommendation and should be imposed on any consent granted;
- The concern raised during the peer review regarding *“heritage and impact of buildings facing Hampden Avenue which are up to two storeys taller than anticipated by DCP No 40”* are not supported. It is noted that a three storey building height is envisaged adjacent to the heritage cliff face and Hampden Avenue. However it is further noted that pursuant to the requirements contained in DCP 40 a single and double storey above ground car park is envisaged to be constructed in the north eastern corner of the site. Furthermore, due to the definition of a car parking podium as described in DCP 40 the podium of this car parking structure would create an *“artificial natural ground level”*. As a consequence of not providing this above ground level car parking podium (and in effect an artificially raised natural ground level) the four storey building height proposed adjacent to Hampden Avenue is in fact in line with the heights envisaged under DCP 40. It is further noted that Council’s Heritage and Urban Design Advisor has raised no objection to the building height proposed adjacent to the heritage cliff face and Hampden Avenue; and

- The ESD Report (and additional information) prepared by EMF Griffiths Pty Ltd which was submitted as part of the subject development application indicates that the proposed development satisfies the objectives and controls contained in Marrickville Development Control Plan No. 32 – Energy Smart Water Wise (DCP 32). A condition requiring the installation of energy efficient fixtures in accordance with the recommendations contained in the ESD Report submitted with the subject development application should be imposed on any consent granted.

Given the above, the Master Plan and amended architectural plans are considered reasonable having regard to the objectives and controls contained in DCP 40 and the comments received from Brett Newbold Urban Planning and Urban Design during the peer review process.

(ii) Solar Access, Ventilation, Energy and Water Efficiency

DCP 35 requires that:

“At least 65% of new dwellings on site shall provide living area windows positioned within 30 degrees east and 20 degrees north to allow for direct sunlight for at least 2 hours between 9.00am and 3.00pm on 21 June.”

DCP 35 also requires that:

“Direct solar access to windows of principal living areas and the principal area of open space of adjacent dwellings, must not be reduced:

- (a) *to less than 2 hours between 9.00am and 3.00pm on 21 June; and*
- (b) *where less than 2 hours of sunlight is currently available in March/Sept will be considered in the assessment of the proposal. The sunlight available between 9.00am and 3.00pm on the 21 March/September, is not to be reduced.”*

The layout and design of the proposed development ensures that the living rooms, activity rooms, bedrooms, and courtyard areas provided in the residential care facility receive appropriate levels of solar access. To this extent it is noted that the buildings provided in the northern portion of the site are no greater than two (2) storeys in height whilst the buildings located in the southern portion of the site are four (4) storeys in height. The manner in which building bulk is distributed around the site ensures overshadowing impacts are minimised whilst solar access to the residential care facility and communal courtyard areas is maximised.

The applicant submitted shadow diagrams which indicate the shadow impacts of the proposed development at 9.00am, 12.00 noon and 3.00pm at the winter solstice. The shadow diagrams indicate that the shadows cast by the proposed development will generally strike the walls of the quarry and as such the proposed development will not result in any significant shadow impacts for residents of adjoining or surrounding development.

(iii) Floor Space Ratio and Site Coverage

DCP 35 outlines the following objectives in relation to floor space ratio and site coverage:

“O1 To ensure that new development results in a floor space ratio (FSR) and site coverage that is compatible with the existing zoning and desired future character of the locality.

- O2 *To ensure that new development results in a site coverage which allows adequate provision to be made on site for infiltration of stormwater, deep soil planting, landscaping, footpaths, driveways and for outdoor recreation areas."*

The specific objectives for Warne Place (as described under DCP 40) are:

- *"To apply an FSR to the site appropriate to the area and context of the land being developed.*
- *To use the FSR as an incentive for the consolidation of allotments to achieve and integrated development on the site."*

A table of compliance with the relevant controls is provided below:

| DCP 40 | Permitted (max) | Proposed | Complies |
|-------------------|------------------------|-----------------|-----------------|
| Floor Space Ratio | 1.2:1 | 1.11:1 | Yes |
| Site Coverage | 30% | 35% | No |

As illustrated above, the proposed development satisfies the maximum floor space ratio applicable to the site however varies from the maximum site coverage control contained in DCP 40.

The applicant made the following submission in justifying the proposed variation to the site coverage control:

"The site coverage proposed is 35%. Whilst this figure is greater than that permitted for a development containing more than 3 stories. However, it is considered that this variation to the numerical standards within the DCP is acceptable, primarily as the proposal contains a mixture of two and four storey structures which substantially reduces the bulk of the development."

The points raised by the applicant are considered to have merit. Whilst not technically satisfying the site coverage control contained in DCP 40, the proposed development is considered reasonable as:

- The proposed development is considered reasonable having regard to the objectives behind the site coverage control. To this extent it is considered that adequate provision has been made on-site for infiltration of stormwater, deep soil planting, landscaping, footpaths, driveways and recreation areas;
- Despite the proposed variation to the site coverage control contained in DCP 40, the proposed development is not considered to result in any significant impacts on the amenity of adjoining or surrounding residences; and
- As described by the applicant above, the ability to satisfy the maximum site coverage control contained in DCP 40 has been impacted upon by the desire to incorporate two (2) storey forms into the overall development scheme.

Given the above the proposed development is considered reasonable having regard to the site coverage controls contained in DCP 40.

(iv) Building Height

DCP 35 outlines the following objectives in relation to height:

- “O1 To use the maximum height limits specified in the Marrickville Local Environmental Plan 2001 to assist in responding to the desired future character of the locality.*
- O2 To ensure the height of development relates to the local topography with minimal cut and fill.*
- O3 To ensure development has minimal impact on neighbouring properties in terms of building dominance (bulk and scale), overshadowing, and privacy.”*

The specific objectives for Warne Place (as described under DCP 40) are:

- “To minimise buildings and structures obstructing views across the site to the Cooks River and to the ridge to the south west.*
- To minimise the height of buildings in line with the height of the quarry wall.*
- To create a ground level view corridor and pedestrian level link through the site into Steel Park.*
- To provide scope for a landmark building on the corner of Illawarra Road and Thornley Street.*
- To allow flood-free and car parking landscaped podiums to be built above the existing ground level to establish a new ground level from which building heights may be measured.”*

In ascertaining height limits for Warne Place, the general building height controls contained in DCP 35 are overlaid with the height plane controls contained in DCP 40. The height plane controls are specifically designed to preserve views across the site for existing dwelling houses located in the north western quadrant above the former quarry with addresses in Hampden Avenue and Day Street.

(i) General Height Control

The table below demonstrates compliance with the general height control contained in DCP 40:

| DCP 40 – Warne Place | Permitted | Proposed | Compliance |
|-----------------------------|------------------|-----------------|-------------------|
| Height | 15 metres | 13.2 metres | Yes |

As indicated above, the proposed development satisfies the general height control contained in DCP 40.

(ii) View Preservation Planes, Cone and Corridor

The building heights proposed as part of the subject development application are considered reasonable as the proposed development complies with the maximum RL's dictated by the view preservation planes, cone and corridor prescribed under DCP 40 which are described under DCP 40 as *“the critical height controls”* as they ensure views across the site are protected.

The view preservation planes form a building envelope over the subject site and are described under DCP 40 as follows:

“Day Street dwellings above the Site

This view plane down towards the Cooks River, about 450 metres distant, falls across the Site from 21.00m AHD at the northern boundary to 17.00m AHD at the southern boundary of the Site.

Hampden Avenue dwellings above the Site

- An angled view cone down towards the Cooks River, about 350 metres distant, is cast falling in a plane starting at level 19.94 AHD at the upper dwelling crossing the southern boundary of the Site at 17.00 AHD and at level 16.61 AHD from the lower dwelling crossing the extension of the southern boundary of the Site at level 15.50 AHD.
- Three horizontal planes across the Site towards the south-western ridge are cast at level 19.94 AHD at the upper dwelling, 18.70 AHD at the middle dwelling and 16.61 AHD for the lower dwelling.”

The marked areas indicate the head and sill height of the windows located on the front elevation of the dwelling houses at 1, 3, and 5 Hampden Avenue which form the view preservation planes across the site under DCP 40.

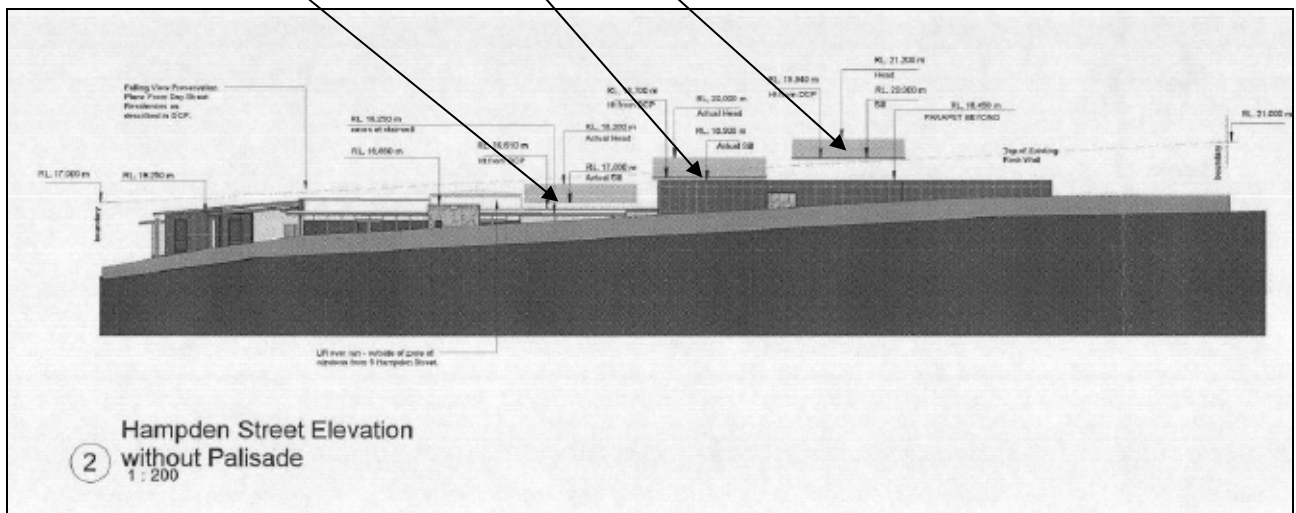


Image 15 Architectural plan indicating that the proposed development is located below the three (3) view preservation planes which ensure that views across the site are maintained from the dwelling houses located at 1, 3, and 5 Hampden Avenue.

The dashed line indicates the view preservation plane dictated for the Day Street dwelling houses under DCP 40

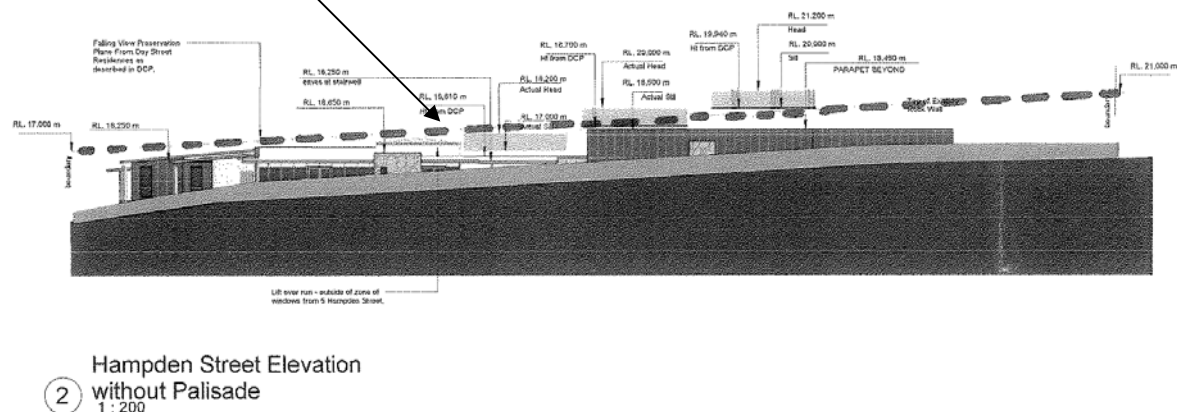


Image 16 Architectural plan indicating that the proposed development is located below the view preservation plane established for the Day Street dwelling houses.

Given the above, the proposed development is considered to satisfy the view preservation planes which are described as being the “critical height controls” in DCP 40

(v) Building Setbacks

DCP 35 outlines the following objectives in relation to building setbacks:

- “O1 To integrate new development with the established setback character of the street.
- O2 To maintain a reasonable level of amenity for neighbours with adequate access to sunlight and fresh air.
- O3 To ensure adequate separation between buildings for visual and acoustic privacy.”

The specific objectives for Warne Place (as described under DCP 40) are:

- *To create heritage curtilage along the quarry face of the stone wall.*
- *To provide reasonable solar access to dwellings located adjacent to and below the quarry face and stone wall.*
- *To provide a view corridor from the site to Steel Park.”*

DCP 40 contains a number of numeric building setback controls to guide development of the site. The setback controls prescribed under DCP 40 are based on the indicative Master Plan suggested in the DCP. However, as described above, the applicant has prepared an alternative Master Plan which aims to guide development for the entire site.

The Master Plan prepared by the applicant has been constrained by the inability to obtain the two sites located on the corner of Illawarra Road and Thornley Street, known as 527 and 529 Illawarra Road. Furthermore, other more general amendments have been made

to the setbacks identified in the indicative Master Plan contained in DCP 40 which are primarily due to the proposed development consisting of an aged care facility and child care centre as opposed to a mixed use/high density residential development.

The setbacks proposed as part of the Master Plan submitted with the subject development application are considered acceptable. The boundary setbacks are sufficient to ensure appropriate levels of amenity are provided for residents of adjoining dwelling houses and ensures a satisfactory cartilage is provided around the heritage listed quarry wall. Further discussion of adequacy of the proposed setbacks and the areas of open space provided as part of the proposed development is provided under Heading 7(vi) below).

(vi) Landscaping and Open Space

DCP 35 outlines the following objectives in relation to landscaping and open space:

- “O1 To encourage site landscaping that complements the character of the individual building and the character of the area.*
- O2 To blend new development into the streetscape and neighbourhood.*
- O3 To retain and enhance existing significant trees and established planting found on site.*
- O4 To provide dwellings with useable private open space.*
- O5 To minimise the extent of hard paved areas and facilitate rainwater infiltration.*
- O6 To improve the appearance, amenity and energy efficiency of housing through integrated landscape design.*
- O7 To preserve and enhance native wildlife populations and habitat through appropriate planting of indigenous vegetation.”*

DCP 35 prescribes private open space and landscaping controls illustrated in the table below:

| DCP 35 (Vol.2) | Required | Proposed | Compliance |
|-----------------------|------------------|-----------------|-------------------|
| <i>Landscape Area</i> | 45% of site area | 56% | Yes |

As illustrated above, the proposed development complies with Council’s minimum requirements in relation to the provision of landscaped area.

Common Open Space

DCP 40 prescribes that any development of the site should include:

“the creation of a minimum of 900sqm of common open space, generally where indicated on figure 13 and as illustrated in figure 15. This open space should be a minimum of 30 metres in both directions, accessible from all of the surrounding buildings and with 33% of the area available for deep soil planting.”

The applicant made the following submission in support of the common open space provided as part of the Master Plan submitted with the subject development application:

“The proposal includes a private courtyard within the centre of the residential aged care facility (RACF). The dimensions of the courtyard vary from DCP. The proposed shape and design responds to the programmatic requirements of the RACF (internal and external planning), solar access, and functional needs of the areas within the courtyard. Deep soil is available within the courtyard to promote high quality landscape.”

As pointed out by the applicant above, the proposal includes a private courtyard within the centre of the residential aged care facility however the dimensions of this courtyard vary slightly from the indicative Master Plan contained in DCP 40. The indicative Master Plan identifies a common open space area measuring 30 metres x 30 metres being provided as a quadrangle in the centre any residential development provided at the rear of the site. The proposed development includes an open space area measuring 28.7 metres x 26.7 metres being provided in the centre of the residential aged care facility. The open space area provided for the residential aged care facility is not perfectly square and varies from the indicative Master Plan provided in DCP 40 due to the specific requirements of the facility which includes a Special Care Unit (for residents suffering from dementia) with an associated courtyard. Furthermore, whilst the courtyard is reduced in size it is noted that the building which forms the northern wall of the courtyard is two (2) storeys in height, as opposed to the 3, 4 and 5 storeys identified in the indicative Master Plan, and as such the proposed courtyard will receive appropriate levels of solar access despite being slightly smaller in size. It is further noted that landscaped open space for the proposed aged care facility satisfies the objectives and controls prescribed under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Given the above, the size and dimension of the private courtyard provided within the centre of the residential aged care facility is considered reasonable.

Plaza

DCP 40 also prescribes that:

“a further 450sqm of open space for community use shall be provided in the area designated a ‘Plaza’ in figures 13, 15 and 16. The minimum width of this area must be 15 metres.”

The applicant made the following submission in support of the plaza provided as part of the amended Master Plan:

“The Arbour (plaza) is within the prescribed dimension, although alternative orientation is provided for the use of the RACF and child care community. The space is a semi-private space with controlled access at night to meet the safety and security requirements of the RACF. The space is visually open and contributes to the landscape setting of the site as viewed from Illawarra Road. It is activated by the childcare entry and café/Eden Room of the RACF.”

As described by the applicant above the location and design of the proposed plaza varies from the indicative Master Plan provided in DCP 40. Despite the variation, the proposed plaza is considered acceptable as the total area of the proposed plaza is 490sqm, which is in excess of the minimum area of 450sqm identified in the indicative Master Plan contained in DCP 40. Furthermore, the dimensions of the subject space exceed the dimensions identified in the indicative Master Plan. The layout and design of the proposed Arbour is considered appropriate and the space will be activated by the child care centre, Eden Room and café all of which front this area of open space.

Heritage Conservation Curtilage

DCP 40 also prescribes that:

“The area of the site between quarry rock face and stone walls and the building alignments, as shown in Figure 15 of the DCP, marked “DS” as the curtilage and designated elsewhere in the DCP, is for the protection and viewing of the heritage item. This area shall be considered as part of the community open space and 90% of its area must be available for deep soil planting.”

The applicant provided the following submission in support of the heritage conservation curtilage provided as part of the amended Master Plan:

“Design proposal:

- The RACF is sited within the building setbacks of the DCP, which establishes the heritage curtilage of the quarry cliff and wall.*
- The building footprint follows the intent of the DCP with an orthogonal, stepping form that enhances the cliff alignment.*
- RACF requires privacy, safety and security for residents and must limit public access to the quarry cliff.*

The design proposes:

- Public access and appreciation of the cliff will be allowed in a controlled manner during special occasions, i.e. heritage week.*
- The proposal retains a view corridor along the alignment of Warne Place, which provides public visibility of the cliff.*
- The cliff can also be visually appreciated from oblique views along Hampden Avenue and Thornley Street.*
- The cliff and its proposed landscape setting will also form an important outlook for residents within the RACF.”*

As pointed out by the applicant above, the residential aged care facility has been setback from the heritage quarry cliff face in accordance with the setbacks identified in the indicative Master Plan contained in DCP 40.

The applicant submitted a Landscape Plan as part of the subject development application which indicates that the setback area is to be appropriately landscaped with a mixture of trees and shrubs. Council’s Heritage and Urban Design Advisor has reviewed the Master Plan submitted with the subject development application and raised no objection to proposal having regard to the provision of a adequate heritage conservation curtilage being provided around the heritage quarry cliff face.

Given the above, the heritage conservation curtilage proposed as part of the subject development application is considered acceptable.

(vii) Streetscape, General Appearance and Materials

DCP 35 outlines the following objectives in relation to streetscape, general appearance and materials:

“O1 To encourage development which reflects contemporary values through a design approach, materials and construction technique, which provides an appropriate response to the historical context of the street and the wider locality.

- O2 *To ensure new development achieves a cohesive relationship with existing development without distorting and obscuring the architectural and cultural significance of the locality.*
- O3 *To ensure a high standard of building design that is sympathetic and complementary to the existing built form and streetscape.*
- O4. *To ensure that the proposed external appearance of the new development, including materials and colour scheme, is compatible with the dominant palette.”*

The proposed development is a well integrated, distinctive/contemporary infill development that responds to the unique site opportunities and constraints provided by this former quarry. Whilst the scale of the development is significantly greater than that of the surrounding development, the architectural form attempts to reduce the visual bulk of the development with the implementation of a varied material palette. Furthermore, whilst the proposal is for a relatively large residential care facility and a child care centre, the proposal achieves a degree of compatibility with the surrounding low density residential development with roof detailing and the activation of the facades with windows and balconies which respond to the residential character of the surrounding area.

Given the above, the proposed development is considered reasonable having regard to the objectives and controls for streetscape, general appearance and materials as contained in DCP 35.

(viii) Heritage Conservation

As mentioned previously, the sandstone wall of the former quarry site is a significant heritage item within the boundaries of the site. It is Inventory Item 3.27 in Schedule 5 of MLEP 2001 consisting of the stone walls of the former quarry on the Thornley Street and Hampden Avenue boundaries, together with the dressed stone walling above the rock face.

Given the heritage significance of the sandstone wall of the former quarry, DCP 40 contains controls relating to the need to provide a Conservation Management Plan and ensure public access to the stone wall is maintained.

Conservation Management Plan and Public Access and Display

DCP 40 prescribes that:

“A Conservation Management Plan must be prepared for the item and its heritage conservation curtilage, defined as the area within the space between the rock walls and the building setback lines.”

DCP 40 further prescribes that:

“Access to the curtilage area must be provided to enable people to view the quarry face and stone wall. Details of access must be provided in the Conservation Management Plan and any Master Plan for the Site.

Consideration should be given to the design and placement of a permanent interpretative display plaque or signboard adjacent to development at each end of the curtilage.”

The proposed development is considered to satisfy the above controls in that:

- The applicant submitted a Conservation Management Plan as part of the subject development application;
- The applicant proposes to allow restricted public access around the quarry face stating *“public access and appreciation of the cliff will be allowed in a controlled manner during special occasions, i.e. heritage week”*. Whilst the access will be restricted, this is considered reasonable given the use proposed as part of the subject development application and the liability issues entailed in allowing unrestricted public access onto private property; and
- A permanent interpretive facility in the form of a plaque/signboard will be installed within the curtilage of the quarry face.

Council’s Heritage and Urban Design Advisor has reviewed the Conservation Management Plan and raised no objection to this aspect of the proposed development.

(ix) Visual and Acoustic Privacy

DCP 35 outlines the following objective in relation to visual and acoustic privacy:

“O1 New development is to ensure adequate visual and acoustic privacy levels for neighbours and residents.”

The proposed development is considered to provide a satisfactory level of visual and acoustic privacy for residents and neighbours for the following reasons:

- Given the property benefits from three street frontages there are very few dwelling houses adjoining the subject site and consequently there are no overlooking issues resulting from the proposed development; and
- The separation distances provided in the layout and design of the proposed development ensures that all surrounding dwelling houses will maintain adequate levels of visual and acoustic privacy; and
- Having regard to the protection of acoustic privacy the applicant submitted an Acoustic Assessment Report prepared by Environmental Resources Management Australia which states that subject to the installation of noise control mitigation measures the proposed development would not result in an unacceptable impact on the acoustic privacy enjoyed by residents of adjoining and/or surrounding properties.

As such, the proposed development is considered to satisfy Council requirements with regard to the protection of visual and acoustic privacy for residents and neighbours.

(x) Site Facilities and Waste Management

The proposed development is considered to satisfy Council's requirements in relation to the provision of site facilities and waste management. More specifically:

- A garbage storage area is proposed in the eastern quadrant of the site; and
- A condition of consent will require a comprehensive waste management plan to be submitted to and approved by Council prior to commencing work on each stage of the development.

Given the above, the application is considered reasonable having regard to site facilities and waste management.

(xi) Safety and Security

The proposal will be generally consistent with the controls relating to safety and security, in that:

- The layout and design of each of the four (4) wings which make up the residential care facility ensures surveillance is provided over the central courtyard, the harbour and the setback areas;
- The principal entry to the residential care facility is considered to be appropriately located and well defined;
- Underground security car parking is provided in the basement with internal access provided via a lift; and
- As pointed out above, the applicant intends to install low level lighting throughout the development.

Furthermore, the applicant submitted a Crime Risk Assessment Report prepared by Martins Crime Consultancy as part of the subject development application. That report makes recommendations that aim to ensure the completed development contains open and clear spaces which are safe and secure for residents and visitors alike. A condition requiring the installation of the safer design recommendations contained in the Crime Risk Assessment Report submitted with the subject development application should be imposed on any consent granted.

Given the above, the proposed development is considered reasonable having regard to safety and security.

(xii) Front Fencing

DCP 40 prescribes that with any development scheme for the site should include the removal of:

“all of the galvanized piping and chain wire safety fence on top of the perimeter stone walls along the Thornley Street, Hampden Avenue and northern laneway boundaries, and replace with a suitable form of metal palisade pattern fencing.

The method of removal of the existing fencing and details of the replacement fencing (including height and method of fixing) should be determined by heritage and safety considerations.”

The applicant has indicated that this requirement will be complied with in consultation with Council's Heritage and Urban Design Advisor. An appropriate condition to such effect should be imposed on any consent granted.

8. Marrickville Development Control Plan No. 19 – Parking Strategy

(i) Car Parking

The table below demonstrates compliance with the applicable car parking rates prescribed under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and Marrickville Development Control Plan No. 19 – Parking Strategy:

| Car Parking Rate | Required | Provided | Compliance |
|---|------------------|------------------|-------------------|
| Aged Care Facility (1 space per 10 beds plus 1 space per 2 employees) | 44 | 44 | Yes |
| Ancillary Office Space (the "HUB") | 8 | 19 | Yes |
| Child Care Centre (1 space per 2 staff plus 1 space per 4 children) | 23 | 23 | Yes |
| Ambulance Space | 1 | 1 | Yes |
| Loading Dock | 1 | 1 | Yes |
| Total | 75 spaces | 86 spaces | Yes |

As indicated above, the proposed development provides a level of car parking that exceeds the car parking rates prescribed under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and Marrickville Development Control Plan No. 19 – Parking Strategy.

(ii) Traffic

The applicant made the following submission in relation to the likely traffic impacts of the proposed development:

"The RTA Guidelines are based on extensive surveys of a wide range of land uses and nominates the following traffic generation rates which are applicable to the development proposal:

Housing for Aged and Disabled Persons

0.1-0.2 peak hour vehicle trips per dwelling

Commercial Premises

2.0 peak hour vehicle trips per 100sqm GFA

Childcare Centres

0.8 peak hour vehicle trips per child

The RTA Guidelines also make the following observation in respect of housing for aged and disabled persons:

Definition

Residential accommodation which may take any building form, which is to be intended to be used permanently as housing for the accommodation of aged or disabled persons. The hostel may consist of residencies or a grouping of 2 or more self contained dwellings and include facilities such as staff accommodation, chapels, medical rooms, recreation facilities, shops and/or therapy rooms.

Factors

These figures at the lower end of the above rates concentrates on subsidised developments (often run by religious organisations). Generation rates of resident funded developments are often greater, as indicated at the higher end of the range.

Application of the above traffic generation rates to the various components of the development proposal yields a traffic generation potential of approximately 77 vehicle trips per hour during commuter peak periods as set out below:

Projected Future Traffic Generation Potential

| | |
|--|-------------------------------------|
| Aged-Care Facility (120 beds): | 12.0 peak hour vehicle trips |
| Offices (842sqm): | 16.8 peak hour vehicle trips |
| Childcare Centre (60 children): | 48.0 peak hour vehicle trips |
| TOTAL TRAFFIC GENERATION POTENTIAL: | 76.8 peak hour vehicle trips |

That projected future level of traffic generation potential should however, be offset or discounted by the volume of traffic which could reasonably be expected to be generated by the existing uses of the site, in order to determine the nett increase (or decrease) in traffic generation potential of the site which is expected to occur as a consequence of the development proposal.

Application of the traffic generation rates nominated in the RTA Guidelines to the former uses of the site yields a traffic generation potential of approximately 144 peak hour vehicle trips as set out below:

Previous Uses of the Site Traffic Generation Potential

| | |
|---|--------------------------------------|
| Service Station (~180sqm convenience store): | 120.0 peak hour vehicle trips |
| Tennis Courts (4) | 16.0 peak hour vehicle trips |
| Industrial Uses (800sqm of building floor area) | 8.0 peak hour vehicle trips |
| TOTAL TRAFFIC GENERATION POTENTIAL: | 144.0 peak hour vehicle trips |

Accordingly, it is likely that the proposed development will result in a decrease in the traffic generation potential the site of approximately 67vph as set out below:

**Projected Nett Decrease in Peak Hour Traffic Generation Potential
as a consequence of the development proposal**

| | |
|---|----------------------------|
| Projected Future Traffic Generation Potential: | 76.8 vehicle trips |
| Former Traffic Generation Potential: | -144.0 vehicle trips |
| NETT DECREASE IN TRAFFIC GENERATION POTENTIAL: | -67.2 vehicle trips |

It is also pertinent to note that the site has currently approval for 140 residential units, which would have generated approximately 41 peak hour vehicle trips.

Notwithstanding, it is noted that the site is underutilised at present (i.e. the site is vacant) and, for the purposes of this assessment, it has been assumed that all of the projected future traffic flows of 77 peak hour vehicle trips will be new or additional to the existing traffic flows currently using the adjacent road network.

That projected increase in traffic activity as a consequence of the development proposal is minimal and will clearly not have any unacceptable traffic implications in terms of road network capacity, as is demonstrated by the following section of this report.

Traffic Implications – Road Network Capacity

The traffic implications of development proposals primarily concern the effects that any additional traffic flows may have on the operational performance of the nearby road network. Those effects can be assessed using the INTANAL program which is

widely used by the RTA and many LGA's for this purpose. Criteria for evaluating the results of INTANAL analysis are reproduced in the following pages.

The results of the INTANAL analysis of the Illawarra Road & Warne Place intersection are summarised on Table 3.1 below, revealing that:

- the Illawarra Road & Warne Place intersection currently operates at Level of Service "A" under the existing traffic demands with total average vehicle delays of less than 1 second/vehicle
- under the projected future traffic demands expected to be generated by the development proposal, the Illawarra Road & Warne Place intersection (which is to become the development sites vehicular access driveway) will continue to operate at Level of Service "A" or "B", with increases in average vehicle delays of less than 2 seconds/vehicle.

In the circumstances, it is clear that the proposed development will not have any unacceptable traffic implications in terms of road network capacity."

As is evidenced by the above, the proposed development will not have a significant impact on existing traffic conditions surrounding the site. Council's Development Engineer has reviewed the proposed development and raised no objection having regard to traffic.

9. Marrickville Development Control Plan No. 31 – Equity of Access and Mobility

Marrickville Development Control Plan No. 31 – Equity of Access and Mobility requires that access be provided *"in accordance with the BCA and AS1428.2"*. DCP 31 also requires the consideration of the following issues:

- *Continuous Accessible Path of Travel*
- *Accessible seating arrangements*
- *Comparable sight lines*
- *Gradient of floor surface*
- *Appropriate sanitary facilities*

The applicant submitted an Accessibility Report prepared by Accessibility Solutions Pty Ltd as part of the subject development application. The Accessibility Report concludes that both the residential aged car facility and child care centre can comply with the requirements of the Building Code of Australia, Commonwealth Government Aged Care Standards and Building Certification Guidelines. A condition requiring appropriate details indicating access in accordance with Council requirements to be submitted to the Certifying Authority prior to the release of a construction certificate should be imposed on any consent granted.

Subject to the above, the proposed development is considered reasonable having regard to the objectives and controls outlined in DCP 31.

10. Marrickville Development Control Plan No. 38 – Community Safety

The proposal will be generally consistent with the controls for community safety outlined in DCP 38 in that:

- the building will be orientated so as provide casual surveillance of the adjoining public areas;

- the existing building has been constructed on a zero lot line to all street boundaries thereby eliminating any entrapment spots; and
- the building will have direct, obvious and secure entry.

Given the above, the proposed development is considered reasonable having regard to community safety.

11. Marrickville Section 94 Contributions Plan 2004

It is considered that the carrying out of the proposed development would result in an increased demand for traffic management within the area. A review of Council's records indicates that the previous uses on the site generated a demand for seventeen (17) car parking spaces. Conversely the proposed development generates a demand for seventy five (75) spaces, with the Aged Care Facility generating a demand for forty four (44) spaces; the administration building (the "HUB") generating a demand for 8 spaces; and the child care centre generating a demand for twenty three (23) spaces. Given the proposed development is to be constructed in stages it is proposed that the Section 94 Contributions be levied in accordance with the car parking demand generated by each stage of the development. Furthermore, given the previous uses of the site generated a demand for seventeen (17) car parking spaces a credit for these spaces has been allocated to Stage 2 of the development (the Aged Care Facility). It is further noted that the applicant originally sought to provide commercial office space on the first floor above the child care centre, however given commercial offices at first floor level are prohibited under Marrickville Local Environmental Plan 2001 (Amendment No. 12), the applicant subsequently amended the proposal such that the first floor level is not proposed to be utilised as storage for the child care centre. Given the level of car parking required for a child care centre is based on the number of staff/children attending the centre, the inclusion of this area as associated storage did not result in an increased demand for car parking or an increased Section 94 Contribution. Should Council be in receipt of an application to use this first floor level for any other purpose that generates an additional demand for car parking, any such use may be subject to a further Section 94 Contribution.

12. Community Consultation

The application was advertised, an on-site notice was erected and residents/property owners in the vicinity of the subject property were notified of the proposed development in accordance with Council's Policy and four (4) submissions were received. The applicant submitted amended plans which were notified in accordance with Council's Notification Policy and three (3) submissions were received.

The submissions received during the notification periods raised the following concerns/issues:

- The height, bulk and scale of the proposed development will restrict views from adjoining properties;
- The proposal will impact on the residential amenity of the surrounding area due the concentration of exhaust fumes from buses, delivery vehicles and cars entering and leaving the premises;
- Impact of exhaust fumes from the underground basement car park;
- Noise impacts from various rooftop plant and equipment;
- Odours from kitchen facilities operating at all hours of the day;
- Odours from the storage of garbage;
- Impacts during construction;

- The sewerage system will not cater with the increased sewage generated by the proposed development;
- The stormwater system will not cater with the increased stormwater run-off generated by the proposed development;
- The subject site is affected by flooding;
- Impacts on the quarry cliff face during construction;
- Lack of a safety protection barrier adjacent to the laneway located to the rear of the dwelling houses which front Day Street;
- Entering and exiting the site onto Illawarra will be difficult during peak periods;
- The subject site is likely to be contaminated;
- Impacts from the disposal and collection of rubbish from the subject site;
- Impacts from deliveries to the proposed residential care facility;
- The proposed development will result in a loss of views to the heritage cliff face of the former quarry;
- Discrepancies between the architectural drawings and the photomontage provided in the Statement of Environmental Effects submitted with the development application;
- Further community consultation required in light of the issues raised during the peer review and the significant amendments made to the proposed development;
- The proposed development should not result in any change to the existing traffic control measures around the site; and
- The owners of the adjoining dwelling house at 521 Illawarra Road raised no objection to the proposed development subject to an appropriate verge/nature strip being provided adjacent their dwelling house.

The above issues have generally been considered in the main body of the report. However, the following responses are made to the issues raised in the submissions submitted during the notification periods:

- The height, bulk and scale of the proposed development is considered reasonable and generally satisfies the objectives and controls as contained in the relevant planning policies;
- Vehicles entering and leaving the site are unlikely to impact on the residential amenity of adjoining or surrounding dwelling houses;
- The basement level of car parking will be mechanically ventilated and the fumes from the underground car parking are unlikely to impact on the amenity of the surrounding area. A condition which prescribes that no injury is to be caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, particulate matter, the exposure to view of any unsightly matter or otherwise should be imposed on any consent granted;
- As pointed out in the main body of the report the applicant submitted an Acoustic Assessment Report prepared by Environmental Resources Management Australia which concluded that *"the development is predicted to comply with relevant acoustic criteria outlined in this report and as defined in the Department of Environment, Climate Change and Water (DECCW) Industrial Noise Policy (INP), January 2000, DECCW's Interim Construction Noise Guideline, July 2009 and Australian Standard: AS 2021 - 2000, "Acoustics Aircraft Noise Intrusion Building Siting and Construction" if the specified noise control mitigation measures, construction details, work practices and methodology are adopted in accordance with acoustic ratings and recommendations within this report"*. A condition requiring plans, specifications and work methods fully reflecting the recommendations contained in the Acoustic Assessment Report to be submitted to the Certifying Authority's satisfaction before the issue of a construction certificate should be imposed on any

consent granted. Furthermore a condition that states that the use of the premises (including any plant and equipment) is not to give rise to the transmission of unacceptable vibration to any place of different occupancy and / or a sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 3dB(A) should be imposed on any consent granted;

- The kitchen will be mechanically ventilated and as such odours from the operation of the kitchen are unlikely to impact on the amenity of the surrounding area. A condition which prescribes that no injury is to be caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, particulate matter, the exposure to view of any unsightly matter or otherwise should be imposed on any consent granted;
- The applicant seeks to create garbage storage area in the north eastern corner of the site at the base of the heritage listed quarry face. Given the separation distances between the garbage storage area and the adjoining residential development, waste generated by the proposed development is unlikely to impact on the amenity of the area;
- Standard conditions which aim to mitigate and limit impacts during construction should be imposed on any consent granted. A condition requiring a Traffic Management Plan to be submitted to and approved by Council is also proposed in the recommendation to ensure the construction of the building does not significantly impact on traffic and car parking in the surrounding streets;
- Having regard to the capacity of the sewerage system to cater for the proposed development, a condition requiring the person acting on the consent to obtain a Section 73 Compliance Certificate under the Sydney Water Act 1994 should be imposed on any consent granted;
- Having regard to the capacity of the stormwater system to cater for the proposed development, Council's Development Engineer has reviewed the proposed development and raised no objection having regard to stormwater run-off;
- The subject site is located in the Cooks River Flood Zone and the application was referred to Council's Development Engineer who raised no objection to the proposed development subject to the imposition of appropriate conditions;
- To ensure impacts to the quarry cliff face are minimised during construction a condition requiring a report prepared by a qualified and experienced geotechnical engineer which details the methods (including, if necessary, detailed drawings, sections and specifications) and provides recommendations for the necessary works required to stabilise the quarry cliff face should be imposed on any consent granted;
- The concerns raised with regard to the adequacy of the existing fencing and the lack of a safety protection barrier adjacent to the laneway located to the rear of the dwelling houses which front Day Street is an issue that must be resolved by Council. The existing fencing is located on Council land and any upgrade to this fencing must be undertaken by Council. The matter has been referred to Council's Engineering Services Section for investigation;
- The issue of traffic has been considered in the main body of the report and the proposed development will not result in a significant impact on the operation of Illawarra Road or any surrounding or nearby streets;
- The issue of contamination has been considered in the main body of the report and appropriate conditions requiring the site to be remediated in accordance with Remedial Action Plan prepared by Environmental Resources Management Australia Pty Ltd should be imposed on any consent granted;
- To minimise impacts from deliveries to the site and garbage collection from the site, a condition requiring all loading and unloading (including deliveries and collection of

waste) in connection with the residential care facility to be carried out from within the subject site and between the hours of 7.00am and 7.00pm should be imposed on any consent granted;

- The photomontages and architectural drawings submitted with the development application are generally consistent, however, as pointed out in the main body of the report the architectural drawings were amended following a preliminary assessment of the application and in response to the peer review of the Master Plan and architectural form;
- Having regard to the objectors' concerns regarding community consultation, it is noted that the amended architectural drawings that were submitted following the preliminary assessment of the application and in response to the peer review of the Master Plan and architectural form were notified in accordance with Marrickville Development Control Plan No. 39 – Development Notification Policy;
- The proposed development will not result in any change to the existing traffic control measures around the site; and
- The verge/nature strip adjacent to 521 Illawarra Road has been amended in a manner that responds to the issues raised by the owners of this adjoining dwelling house. To this extent it is noted that the verge has been widened to have a minimum width of 2 metres and the existing access arrangements will be maintained.

13. Conclusion

The heads of consideration under Section 79C of the Environmental Planning and Assessment Act of relevance to the application have been taken into consideration.

The proposed development generally complies with the objectives and controls contained in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, Marrickville Local Environmental Plan 2001 and Marrickville Development Control Plan No. 40 – Warne Place South Marrickville. The proposed development is a well integrated, distinctive/contemporary infill development that responds to the unique site opportunities and constraints provided by this former quarry.

It is considered that the proposed development will have a significant social benefit as it is to contain a child care centre and an aged care facility, both of which are services that are in high demand in the inner city area.

Accordingly, the application is considered suitable for approval subject to the imposition of appropriate conditions.

PART E - RECOMMENDATION

- A. **THAT** the development application to erect a residential aged care facility containing 120 beds within a four storey building over basement car park and a child care centre within a two storey building with off street car parking for 86 vehicles for the entire development be **APPROVED** subject to the following conditions:

GENERAL

1. The development must be carried out in accordance with plans and details listed below:

| Plan No. and | Plan/ | Date | Prepared by | Date |
|--------------|-------|------|-------------|------|
|--------------|-------|------|-------------|------|

| Issue | Certificate Type | Issued | | Submitted |
|---------------------------|--|------------------|--|------------------|
| 1264-TP-1 (Issue 6) | Ground Floor Plan | 11 May 2010 | Gary J. Garnett and Associates Pty Ltd | 20 May 2010 |
| 1264-TP-2 (Issue 3) | Level 1 Floor Plan | 23 April 2010 | Gary J. Garnett and Associates Pty Ltd | 20 May 2010 |
| 1264-TP-3 (Issue 3) | Level 2 Floor Plan | 23 April 2010 | Gary J. Garnett and Associates Pty Ltd | 20 May 2010 |
| 1264-TP-4 (Issue 3) | Level 3 Floor Plan | 23 April 2010 | Gary J. Garnett and Associates Pty Ltd | 20 May 2010 |
| 1264-TP-5 (Issue 4) | Basement Floor Plan | 11 May 2010 | Gary J. Garnett and Associates Pty Ltd | 20 May 2010 |
| 1264-TP-6 (Issue 3) | Sections and Elevations | 23 April 2010 | Gary J. Garnett and Associates Pty Ltd | 20 May 2010 |
| 1264-TP-7 (Issue 3) | Sections and Elevations | 23 April 2010 | Gary J. Garnett and Associates Pty Ltd | 20 May 2010 |
| 1264-TP-8 (Issue 3) | Sections and Elevations | 23 April 2010 | Gary J. Garnett and Associates Pty Ltd | 20 May 2010 |
| 1264-TP-9 (Issue 3) | Staging | 23 April 2010 | Gary J. Garnett and Associates Pty Ltd | 20 May 2010 |
| 1264-TP-10 (Issue 5) | Site Plan | 23 April 2010 | Gary J. Garnett and Associates Pty Ltd | 20 May 2010 |
| 1264-TP-12 (Issue 3) | Colours and Materials | 23 April 2010 | Gary J. Garnett and Associates Pty Ltd | 20 May 2010 |
| 1264-TP-13 (Issue 2) | Roof Plan and Transformer Fence Detail | 23 April 2010 | Gary J. Garnett and Associates Pty Ltd | 20 May 2010 |
| SS09-1994 – 101 (Issue H) | Landscape Plan | 10 May 2010 | Site Image Landscape Architects | 20 May 2010 |
| SS09-1994 – 101 (Issue H) | Landscape Plan – Staging Plan | 15 December 2009 | Site Image Landscape Architects | 24 December 2010 |

with the application for development consent and as amended by the following conditions.

Reason: To confirm the details of the application submitted by the applicant.

2. The residential aged care accommodation being occupied only:
 - a) seniors or people who have a disability;
 - b) people who live within the same household with seniors or people who have a disability, or
 - c) staff employed to assist in the administration of and provision of services to self contained dwellings approved in this Determination.

Reason: To ensure that the residential aged care accommodation is only occupied in accordance with the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

3. The Hub Administrative Centre being used exclusively in association with the approved residential care facility.

Reason: To ensure that the administrative centre is ancillary to the approved residential care facility to comply with the zoning provisions applying to the land under Marrickville Local Environmental Plan 2001.

4. The first floor level above the child care centre being used exclusively for storage in association with the approved child care centre.

Reason: To ensure that the usage of the first floor level is ancillary to the approved Child care centre to comply with the zoning provisions applying to the land under Marrickville Local Environmental Plan 2001.

5. Site remediation works (including the storage, treatment and disposal of any ASS and PASS) being carried out for the site in accordance with Remedial Action Plan (reference 0096001RAP Final) prepared by Environmental Resources Management Australia Pty Ltd. Once these works have been carried out a validation report is to be submitted to Council prepared in accordance with the requirements of the NSW EPA's Guidelines for Consultants Reporting on Contaminated Sites to Council's satisfaction.

Reason: To ensure that the site is suitable for the intended use.

6. A separate Development Application being submitted to, and approved by, Council for the fit-out and use of the administration building ("the HUB") before occupation of that premises.

Reason: To advise the person acting on this consent of the necessity of obtaining Council approval for fit-out and use of the administration building ("the HUB") prior to occupation.

7. A separate Development Application being submitted to, and approved by, Council for the fit-out and use of the child care centre building before occupation of that premises.

Reason: To advise the person acting on this consent of the necessity of obtaining Council approval for fit-out and use of the child care centre prior to occupation.

8. The child care centre catering for a maximum of sixty (60) children at any one time without the prior approval of Council.

Reason: To ensure that the number of children attending the child care centre at any one time is not increased without a further review of the off-street car parking facilities available for the development.

9. Not more than sixteen (16) persons being employed in connection with the child care centre being on the premises at any one time without the prior approval of Council.

Reason: To ensure that the number of employees on the premises at any one time is not increased without a further review of the off-street car parking facilities available for the development.

10. The hours of operation of the child care centre being restricted to between the hours of 7.00am to 7.00pm Mondays to Fridays with no work being carried out on Saturdays, Sundays or Public Holidays.

Reason: To ensure that the operation of the premises does not interfere with the amenity of the locality.

11. Not more than fifty six (56) persons being employed in connection with the residential care facility use being on the premises at any one time without the prior approval of Council.

Reason: To ensure that the number of employees on the premises at any one time is not increased without a further review of the off-street car parking facilities available for the development.

12. A minimum of eighty six (86) off-street car parking spaces, a bus parking space and a loading dock being provided and maintained at all times in accordance with the standards contained within Marrickville Development Control Plan No. 19 - Parking Strategy. Of the eighty six (86) off-street car parking spaces a minimum of twelve (12) spaces are to be maintained as visitor spaces for the aged care facility; twenty eight (28) spaces are to be maintained as staff car parking for the aged care facility; eight (8) spaces are to be maintained as car parking for the office component of the aged care facility ("the HUB"); eight (8) spaces are to be maintained as staff parking for the child care centre; and fifteen (15) spaces (including the 5 spaces adjacent to Warne Place) are to be maintained as drop off and pick up spaces for the child care centre. A sign legible from the street shall be permanently displayed to indicate that visitor parking is available on site.

Reason: To confirm the details of the application as submitted by the applicant.

13. All parking spaces and turning area thereto being provided in accordance with the design requirements set out within Marrickville Development Control Plan No. 19 - Parking Strategy, and being used exclusively for parking and not for storage or any other purpose.

Reason: To ensure adequate manoeuvrability to all car parking spaces and that the spaces are used exclusively for parking.

14. Two (2) disabled car parking spaces, of the eighty six (86) off-street car parking spaces required under this Determination, being provided and marked as disabled car parking spaces. A sign legible from the street shall be permanently displayed to indicate that disabled parking is available on site.

Reason: To ensure that disabled car parking spaces are provided and marked accordingly and that disabled persons are advised and directed to such parking.

15. No injury being caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, vapours, odours, dust, particular matter, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health, the exposure to view of any unsightly matter or otherwise.

Reason: To ensure the operation of the premises does not affect the amenity of the neighbourhood.

16. The use of the premises, including any plant and equipment, not giving rise to:

- transmission of unacceptable vibration to any place of different occupancy;
- a sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 3dB(A). The source noise level shall be assessed as an LAeq,15min and adjusted in accordance with Environment Protection Authority guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content as described in the NSW Environment Protection Authority's Environmental Noise Control Manual and Industrial Noise Policy 2000 and The Protection of the Environment Operations Act 1997 (NSW).

NOTE: Marrickville Council has adopted a 3dB(A) goal in order to prevent background noise creep and the 5dB(A) criteria as outlined in the above mentioned references are not to be used.

Reason: To prevent loss of amenity to the area.

17. Noise and vibration from the use and operation of any plant and equipment and/or building services associated with the premises not giving rise to 'offensive noise' as defined by The Protection of the Environment Operations Act 1997 (NSW).

Reason: To protect the amenity of the surrounding neighbourhood.

18. All loading and unloading (including deliveries and collection of waste) in connection with the residential care facility being carried out from within the subject site and between the hours of 7.00am and 7.00pm.

Reason: To ensure that all loading and unloading in connection with the residential care facility use is carried out in a manner that does not impact on the amenity of the surrounding area.

19. A separate application being submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures.

Reason: To ensure the compliance of any advertisements or advertising structures with the requirements of Council's Advertising Code.

20. The developer liaising with the Sydney Water Corporation, the Energy Australia, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property.

Reason: To ensure that the development is adequately serviced.

21. Should the proposed development require the provision of an electrical substation, such associated infrastructure shall be incorporated wholly within the development site. Before proceeding with your development further, you are directed to contact Energy Australia directly with regard to the possible provision of such an installation on the property.

Reason: To provide for the existing and potential electrical power distribution for this development and for the area.

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

Reason: To ensure the work is carried out to an acceptable standard and in accordance with the Building Code of Australia.

23. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before occupation of the site.

Reason: To ensure all costs for the adjustment/augmentation of services arising as a result of the redevelopment are at no cost to Council.

24. Occupants of the residential aged care facility shall not be eligible for any existing or future resident parking scheme for the area. The person acting on this consent being responsible to advise any prospective tenant of this condition.

Reason: To ensure the development does not reduce the amount of "on street" parking currently available.

BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

For the purpose of interpreting this consent, a Principal Certifying Authority (PCA) means a principal certifying authority appointed under Section 109E(1) of the Environmental Planning and Assessment Act 1979. Pursuant to Section 109E(3) of the Act, the PCA is principally responsible for ensuring that the works are carried out in accordance with the approved plans, conditions of consent and the provisions of the Building Code of Australia.

25. No work shall commence until:

- a) A PCA has been appointed. Where Council is appointed ensure all payments and paper work is completed (contact Council for further information). Where an Accredited Certifier is the appointed, Council shall be notified within two (2) days of the appointment; and
- b) A minimum of two (2) days written notice given to Council of the intention to commence work.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

26. A Construction Certificate shall be obtained before commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

27. Sanitary facilities are to be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet shall be connected to the sewer, septic or portable chemical toilet before work commences.

Facilities are to be located so that they will not cause a nuisance.

Reason: To ensure that sufficient and appropriate sanitary facilities are provided on the site.

28. All demolition work shall:

- a) Be carried out in accordance with the requirements of Australian Standard AS2601 'The demolition of structures' and the Occupational Health and Safety Act and Regulations; and
- b) Where asbestos is to be removed it shall be done in accordance with the requirements of the WorkCover Authority of NSW and disposed of in accordance with requirements of the Department of Environment, Climate Change and Water.

Reason: To ensure that the demolition work is carried out safely.

29. The person acting on this consent shall be responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to be submitted to and accepted by the PCA before work commences, on the buildings on the adjoining property at 521 Illawarra Road, 527 Illawarra Road and 529 Illawarra Road, if the consent of the adjoining property owners can be obtained. In the event

that the consent of the adjoining property owners cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received shall be forwarded to the PCA before work commences.

Reason: To catalogue the condition of the adjoining property for future reference in the event that any damage is caused during work on site.

30. Where any loading, unloading or construction is to occur from a public place, Council's Infrastructure Services Division shall be contacted to determine if any permits or traffic management plans are required to be obtained from Council before work commences.

Reason: To protect the amenity of the area.

31. All services in the building being demolished are to be disconnected in accordance with the requirements of the responsible authorities before work commences.

Reason: To ensure that the demolition work is carried out safely.

32. A waste management plan shall be prepared in accordance with Marrickville Development Control Plan No. 27 - Waste Management and submitted to and accepted by the PCA before work commences on each stage of the development.

Reason: To ensure the appropriate disposal and reuse of waste generated on the site.

33. The site shall be enclosed with suitable fencing to prohibit unauthorised access. The fencing shall be erected as a barrier between the public place and any neighbouring property, before work commences.

Enquiries for site fencing and hoardings in a public place, including the need for Council approval, can be made by contacting Council's Infrastructure Services Division.

Reason: To secure the area of the site works maintaining public safety.

34. A rigid and durable sign shall be erected in a prominent position on the site, before work commences. The sign is to be maintained at all times until all work has been completed. The sign is to include:

- a) The name, address and telephone number of the PCA;
- b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
- c) A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.

Reason: To maintain the safety of the public and to ensure compliance with the Environmental Planning and Assessment Regulations.

35. A Soil and Water Management Plan shall be prepared in accordance with Landcom Soils and Construction, Volume 1, Managing Urban Stormwater (Particular reference is made to Chapter 9, "Urban Construction Sites") and submitted to and accepted by the PCA. A copy of this document shall be submitted to and accepted by PCA before work commences. The plan shall indicate:

- a) Where the builder's materials and waste are to be stored;
- b) Where the sediment fences are to be installed on the site;
- c) What facilities are to be provided to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way; and

d) How access to the site will be provided.

All devices shall be constructed and maintained on site while work is carried out.

Reason: To prevent soil erosion and sedimentation of the stormwater network.

36. The person acting on this consent shall apply as required for all necessary permits including crane permits, road opening permits, hoarding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the Local Government Act, 1993 or Section 138 of the Roads Act, 1993.

Reason: To ensure all necessary approvals have been applied for.

37. Where it is proposed to carry out works in public roads or Council controlled lands, a road opening permit shall be obtained from Council before the carrying out of any works in public roads or Council controlled lands. Restorations shall be in accordance with Marrickville Council's Restorations Code. Failure to obtain a road opening permit for any such works will incur an additional charge for unauthorised openings in the amount of \$2,002 as provided for in Council's adopted fees and charges.

Reason: To ensure that all restoration works are in accordance with Council's Code.

38. The person acting on this consent shall provide details of the means to secure the site and to protect the public from the construction works. Where the means of securing the site involves the erection of fencing or a hoarding on Council's footpath or road reserve the person acting on this consent shall submit a hoarding application and pay all relevant fees before commencement of works.

Reason: To secure the site and to maintain public safety.

39. A detailed Traffic Management Plan to cater for construction traffic shall be submitted to and approved by Council before commencement of works. Details shall include proposed truck parking areas, construction zones, proposed hoarding or scaffolding to protect the public, crane usage, truck routes, number of trucks and access arrangements etc. All demolition and construction vehicles are to be wholly contained within the site and vehicles must enter the site before stopping.

Reason: To ensure construction traffic does not unduly interfere with vehicular or pedestrian traffic, or the amenity of the area.

40. The person acting on this consent shall submit a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the commencement of works (including any demolition works). This shall include a CCTV inspection of the Council's stormwater pipe traversing the site.

Reason: To ensure the existing condition of Council's infrastructure is clearly documented.

BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE FOR STAGE 2

(involving the construction of the basement, the aged care facility, the harbour area, the Eden room and theatre)

For the purpose of interpreting this consent the Certifying Authority (Council or an Accredited Certifier) is that person appointed to issue a Construction Certificate.

41. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. **Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.**

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact **with the Coordinator**, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

Sydney Water written advice that you have obtained the Notice of Requirements must be submitted to Council's satisfaction before the issue of a Construction Certificate.

Reason: To comply with the requirements of that Act.

42. Evidence of payment of the building and construction industry Long Service Leave Scheme shall be submitted to and accepted by the Certifying Authority (Council or an Accredited Certifier) before the issue of a Construction Certificate. The required payment of \$83,855.80 can be made at the Council Offices. This fee has been based on an estimated cost of works of \$23,958,800.

NB: The required payment referred to above is based on the estimated cost of building and construction works as stated on the development application and The current long service levy rate, set by the Long Service Payments Corporation, of 0.35% of the cost of the building and construction work.

The payment is required to be paid before the issue of a Construction Certificate and the required payment may change if the estimated cost of works has increased at that time or the levy rate has changed. In such circumstances the necessary payment will need to be re-calculated. For more information on how and where payments can be made contact the Long Service Payments Corporation.

Reason: To ensure that the required levy is paid in accordance with the Building and Construction Industry Long Service Payments Act.

43. A total monetary contribution of \$29,692.57 has been assessed as the contribution for the development under Section 94 of the Environmental Planning and Assessment Act 1979 and Marrickville Section 94 Contributions Plan 2004 (a copy of which may be inspected at the offices of the Council). The contribution is towards:-
- a) \$28,996.65 Section 94 Contributions Plan 2004 for Marrickville South Area - Traffic Management; and
 - b) \$695.92 Plan Administration.

The monetary contributions above are the Council's adopted contributions under the current Fees and Charges Schedule. Under Marrickville Contributions Plan 2004, contributions will be adjusted at the time of payment in line with any change in the Consumer Price Index: All Groups Index Number for Sydney provided by the Australian Bureau of Statistics. The adjusted contribution payable will be the rate in the Council's adopted Fees and Charges Schedule for the financial year in which the contribution is paid.

The contribution (as adjusted) must be paid to the Council **in cash or by unendorsed bank cheque (from an Australian Bank only) or EFTPOS (Debit only)** before the issue of a Construction Certificate. Under Marrickville Section 94 Contributions Plan 2004 payment of Section 94 contributions **CANNOT** be made by Personal Cheque, Company Cheque or Credit Card.

NB: The above Contributions apply to end of Financial Year 2010/2011 after which the Contributions will be indexed.

Reason: To ensure provision is made for the increased demand for public amenities and services required as a consequence of the development being carried out.

44. (a) A report is to be prepared by a qualified and experienced geotechnical engineer (referred to in this consent as "the Geotechnical Report"). The Geotechnical Report is to:
- (i) Detail the methods (including, if necessary, detailed drawings, sections and specifications) and provide recommendations for the necessary works required to stabilise the Quarry Cliff Face. All stabilisation methods and recommendations in the Geotechnical Report are to give due consideration to the heritage significance of the Quarry Cliff Face.
 - (ii) Include detailed drawings, sections and specifications for all proposed site excavations and other site earthworks. Also to be included is an appropriate 'method statement' and an overall site management plan of the earthworks arrangements. The detailed drawings, sections, and method statement are to be prepared by a suitably qualified and experienced civil engineer and are to be verified by a suitably qualified and experienced geotechnical engineer.
- (b) If the Geotechnical Report recommends that any anchors (including rock bolts, passive dowels or the like) be installed within the ground underneath any adjoining properties the written permission of the owners of such properties must be submitted with the Geotechnical Report. This requirement applies to any form of temporary or permanent anchor, as well as any anchors contemplated under the road reserve.
- (c) The Geotechnical Report is to be submitted to the Council for approval before the issue of a Construction Certificate.

Reason: To comply with statutory requirements and to ensure appropriate geotechnical investigation is carried out.

45. An Archival Record of the existing condition of the wall and quarry face being undertaken in accordance with the Guidelines for Archival and Photographic Recording of Heritage Items prepared by the NSW Heritage Office before the issue of a Construction Certificate. The record should include measured drawings, black and white photographs, and either colour slides or colour digital images keyed to plans. Two copies of the final archival record shall be submitted to the satisfaction of Council's Heritage and Urban Design Advisor, for lodgement with Council Archives and Local Studies Library.

Reason: To ensure that the wall and quarry face are appropriately recorded prior to development.

46. An Interpretation Plan (in accordance with Policy 7.11 of the Conservation Management Plan) being submitted to the satisfaction of Council's Heritage and Urban Design Advisor before the issue of a Construction Certificate. The Plan shall be a short report explaining interpretation methods and providing details as to how each is to be achieved in accordance with the Conservation Management Plan. Two copies of any such interpretation plan are to be provided to Marrickville Council.
Reason: To ensure ongoing conservation and maintenance of the heritage item.
47. A cyclical Maintenance strategy for the conservation of the stone quarry and walling (in accordance with Section 7.9 of the Conservation Management Plan) being prepared and implemented to ensure the ongoing long-term maintenance of heritage item. All cyclical maintenance documents to form part of the Owners' Corporation by-laws. Details of the cyclical Maintenance strategy are to be submitted to and approved by Council's Heritage and Urban Design Advisor before the issue of a Construction Certificate. Two copies of any such cyclical Maintenance strategy are to be provided to Marrickville Council.
Reason: To ensure ongoing conservation and maintenance of the heritage item.
48. A Schedule of Essential and Desirable Conservation Works (in accordance with Section 8.3 of the Conservation Management Plan) being submitted to the satisfaction of Council's Heritage and Urban Design Advisor before the issue of a Construction Certificate to ensure the adequate conservation of the heritage item. Two copies of any such schedule shall be provided to Marrickville Council.
Reason: To ensure ongoing conservation and maintenance of the heritage item.
49. Details regarding all hard paved areas within the development being submitted to Council's satisfaction before the issue of the Construction Certificate. In this regard the materials used should be chosen to break up the extent of hard paving and enhance the appearance of the development.
Reason: To ensure all hard paved areas within the development are sympathetic to and enhance the appearance of the development.
50. A detailed plan showing the height, colour and material of all fencing within the development being submitted to Council's satisfaction before the issue of the Construction Certificate.
Reason: To ensure all fencing is in keeping with the character of the development and the area.
51. Details of the new perimeter fencing above the stone walling being submitted in accordance with the requirements prescribed under Marrickville Development Control Plan No. 40 – Warne Place, South Marrickville and to the satisfaction of Council's Heritage and Urban Design Advisor before the issue of the Construction Certificate.
Reason: To ensure ongoing conservation and maintenance of the heritage item.
52. Plans and specifications fully reflecting the recommendations contained in the Accessibility Report prepared by Accessibility Solutions, dated 15 December 2009, submitted with the application for development consent being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate. To this extent appropriate details shall be submitted to and accepted by the Certifying Authority (Council or an Accredited Certifier) indicating the following:
- a) Access to the premises via the principal place of entry to the building and an accessible path of travel complying with AS 1428.1- 2009 'Design for access and mobility';

- b) Accessible toilets complying with AS 1428.1- 2009 'Design for access and mobility';
- c) The lift design shall comply with AS 1735.12 -1999 'Lifts, escalators and moving walkways Part 12: Facilities for persons with disabilities' as a minimum requirement; and
- d) An accessible counter complying with AS 1428.2 - 2001 'Design for access and mobility'.

Reason: To ensure that the premises provide equitable access to all persons.

53. Plans and specifications fully reflecting the recommendations contained in the Crime Risk Assessment Report prepared by Martins Crime Consultancy, dated 16 November 2009, submitted with the application for development consent being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure the safe design recommendations are incorporated into the development.

54. Plans, specifications and work methods fully reflecting the recommendations contained in the Acoustic Assessment Report prepared by Environmental Resources Management Australia Pty Ltd, dated 21 December 2009, submitted with the application for development consent being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure that the recommended acoustic measures are incorporated into the development.

55. Amended plans indicating the removal of the timber fence proposed around the transformers located at the front of the site being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure that no structures are erected on Council's road reserve and the existing pedestrian access to the rear yard of 521 Illawarra Road is maintained.

56. Lighting details of the pedestrian areas, parking areas and all entrances being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure appropriate lighting is provided to create a safe living environment.

57. The street tree planting scheme for Illawarra Road being submitted for approval of the Director, Infrastructure Services before the issue of a Construction Certificate. Tree species selection and location shall be developed in consultation with Council's Parks & Reserves Section. Such plan to also contain details as to the location of power poles and overhead power lines, manholes, vehicular crossings, footpaths and the like. All street trees shall be of a super advanced height, appropriately planted. All costs associated with the planting of street trees shall be borne by the person acting on this consent.

Reason: To ensure appropriate street tree planting.

58. The floor levels of the development including the top of car park ramp and all entries to the underground car park including stairways shall be set at a minimum height of RL 3.5m AHD which represents 500mm freeboard above the 100 year flood level from the Cooks River (ref - Webb McKeown-Cooks River Floodplain Management Study 1994). Amended plans detailing the above requirements shall be submitted to and approved by Council before the issue of a Construction Certificate.

Reason: To ensure the development is protected from flooding.

59. Before the issue of a Construction Certificate the owner or builder shall sign a written undertaking that they shall be responsible for the full cost of repairs to footpath, kerb and gutter, or other Council property damaged as a result of construction of the proposed development. Council may utilise part or all of any Building Security Deposit (B.S.D.) or recover in any court of competent jurisdiction, any costs to Council for such repairs.

Reason: To ensure that all damages arising from the building works are repaired at no cost to Council.

60. The foundations of the proposed development adjacent to Council's stormwater system shall be constructed so that **no** surcharge loads are imposed upon the channel. Plans, and supportive documents, detailing the proposed foundations adjacent to the stormwater pipe, shall be submitted to Council before the issue of a Construction Certificate.

Reason: To ensure the drainage system is protected.

61. Detailed plans of the proposed stormwater re-use system to be used for irrigation and toilet flushing including the storage tanks, the supply and the reticulation system shall be submitted to and approved by Council before the issue of a Construction Certificate. The system shall comply with Sydney Water and Health Department requirements and shall include mosquito protection and a first flush device.

Reason: To enable the assessment of the water re-use system.

62. Details of an adequate Flood Management Plan for the safe evacuation of the basement car park including flood warning systems and signage shall be submitted to and approved by Council before the issue of a Construction Certificate.

Reason: To ensure the safe and orderly evacuation of the basement car park in case of flood inundation.

63. The layout of the proposed car parking and loading dock areas associated with the subject development including driveways, grades, headroom, turn paths, sight distance requirements, aisle widths and parking bay dimensions shall be designed in accordance with AS2890.1-2004, AS2890.2-2002 and AS2890.6-2009 so that:

- a) Ramps grades shall be designed in accordance with Clause 2.5.3 of AS2890.1-2004. Grade changes on the ramp shall be checked using the method at Appendix C of the Standard;
- b) Entry and exit to the loading dock as well as manoeuvrability within the site shall be designed using the swept path template (with appropriate clearances) for a Medium Rigid Vehicle in accordance with AS2890.2-2002; and
- c) The design of car spaces for people with disabilities shall comply with the requirements of AS2890.6-2009 (Parking Facilities, Part 6: Off-street car parking for people with disabilities). This shall include installation of bollards as per Fig 2.2 and Fig 2.3 of the Standard.

Full details of compliance with the above requirements including dimensioned plans and the use of turning templates shall be submitted to and accepted by Council before issue of a Construction Certificate.

Reason: To ensure that vehicular access and car parking are designed in accordance with AS2890.1-2004, AS2890.2-2002 and AS2890.6-2009

64. In order to provide satisfactory vehicular access and drainage to the site, the following road and drainage works shall be carried out adjacent to and within the site at no cost to Council and prior to the occupation of the building. The works shall include and not be limited to the following:

- a) Diversion of the Council stormwater line and upgrading to a 1 in 20 year storm capacity generally in accordance with the drainage plans C-12 and H-14 submitted by Warren Smith and Partners dated December 2009. The proposed diversion shall be redesigned to include a 3.6m kerb inlet pit in Thornley Street;
- b) Construction of Warne Place and the right-of-way inclusive of road pavement, drainage, kerb & gutter, footpaths and kerb returns generally in accordance with concept C010554.00-DA03 submitted by Costin Roe Consulting;
- c) The construction of vehicular crossings at the proposed vehicular access locations;
- d) Reconstruction of the existing footpaths for the full frontage of the site in Illawarra Road and Thornley Street. The footpath in Illawarra Road shall be constructed in suitable decorative materials and to an approved;
- e) Tree planting for the full frontage of the site in Illawarra Road and Thornley Street. Trees shall be 200L advanced specimens with suitable decorative tree guards to an approved detail. It is suggested that the specimen, location and spacing of the trees be further discussed with Council's Manager of Parks Mr Richard Sage prior to submission of plans; and
- f) All adjustments to public utilities required by these works including additional lighting.

Full detailed construction plans and specification for Warne Place and the right-of-way including long-sections along the kerb line and centreline, cross-sections at 10 metre intervals and details of public utility services shall be submitted for the approval of Council before the issue of a Construction Certificate. No road or drainage works shall commence until approved plans and specifications have been issued for construction by Council.

Reason: To provide satisfactory vehicular access and drainage to the area.

65. Payment of a Bond to Marrickville Council, in the sum of \$180,000 for the proper performance of Road/Drainage works before the issue of a Construction Certificate. The security may be provided in one of the following methods:

- a) in full in the form of a cash bond; or
- b) by provision of a Bank Guarantee by an Australian Bank in the following terms:
 - (i) the bank must unconditionally pay the guaranteed sum to the Council if the Council so demands in writing;
 - (ii) the bank must pay the guaranteed sum within seven (7) days of demand without reference to the applicant or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to consent or the carrying out of development in accordance with the consent; and
 - (iii) the bank's obligations are discharged when payment to the Council is made in accordance with this guarantee or when the Council notifies the bank in writing that the guarantee is no longer required.

Reason: To ensure all Road/Drainage works are completed within a reasonable time.

66. The footpath alignment levels at the boundary shall be set at top of the adjacent kerb height plus 3 percent. A footpath level alignment plan detailing footpath alignment levels at the boundary in particular at every vehicular and pedestrian entry shall be submitted to and approved by Council before the issue of a Construction Certificate. With regard to Warne Place the alignment levels shall be established from the design plans for the lane to be submitted by the applicant before the issue of a Construction Certificate.

Reason: In accordance with Council's powers under the Roads Act, 1993, alignment levels at the property boundary will be required to accord with Council's requirements.

67. Stormwater drainage plans generally in accordance with Plans C-01 to C-09 submitted by Warren Smith and Partners, dated December 2009, detailing the existing and proposed site drainage network including plans and longitudinal sections of pipeline, the location of pits, pipe invert and pit surface levels, junction details, size and class of pipes, trench conditions and details of surface flow paths together with hydrologic and hydraulic calculations that detail the drainage network and the capacities of the various surface flow regimes being submitted to and accepted by Council before the issue of a Construction Certificate. Calculations shall include a hydraulic grade line analysis. All captured stormwater shall be pre-treated via a sand filters, bio retention filter systems, grassed swales or by the use of permeable pavers prior to discharge to a Council controlled system.

Reason: To assess the adequacy of the proposed/existing site drainage system.

BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE FOR STAGE 3 **(involving the erection of the Hub Administration Centre)**

For the purpose of interpreting this consent the Certifying Authority (Council or an Accredited Certifier) is that person appointed to issue a Construction Certificate.

68. A total monetary contribution of \$8,797.79 has been assessed as the contribution for the development under Section 94 of the Environmental Planning and Assessment Act 1979 and Marrickville Section 94 Contributions Plan 2004 (a copy of which may be inspected at the offices of the Council). The contribution is towards:-

- a) \$8,591.60 Section 94 Contributions Plan 2004 for Marrickville South Area - Traffic Management; and
- b) \$206.19 Plan Administration.

The monetary contributions above are the Council's adopted contributions under the current Fees and Charges Schedule. Under Marrickville Contributions Plan 2004, contributions will be adjusted at the time of payment in line with any change in the Consumer Price Index: All Groups Index Number for Sydney provided by the Australian Bureau of Statistics. The adjusted contribution payable will be the rate in the Council's adopted Fees and Charges Schedule for the financial year in which the contribution is paid.

The contribution (as adjusted) must be paid to the Council **in cash or by unendorsed bank cheque (from an Australian Bank only) or EFTPOS (Debit only)** before the issue of a Construction Certificate. Under Marrickville Section 94 Contributions Plan 2004 payment of Section 94 contributions **CANNOT** be made by Personal Cheque, Company Cheque or Credit Card.

NB: The above Contributions apply to end of Financial Year 2010/2011 after which the Contributions will be indexed.

Reason: To ensure provision is made for the increased demand for public amenities and services required as a consequence of the development being carried out.

69. Plans and specifications fully reflecting the recommendations contained in the Accessibility Report prepared by Accessibility Solutions dated 15 December 2009 submitted with the application for development consent being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate. To this extent appropriate details shall be submitted to and accepted by the Certifying Authority (Council or an Accredited Certifier) indicating the following:

- a) Access to the premises via the principal place of entry to the building and an accessible path of travel complying with AS 1428.1- 2009 'Design for access and mobility';
- b) Accessible toilets complying with AS 1428.1- 2009 'Design for access and mobility';
- c) The lift design shall comply with AS 1735.12 -1999 'Lifts, escalators and moving walkways Part 12: Facilities for persons with disabilities' as a minimum requirement; and
- d) An accessible counter complying with AS 1428.2 - 2001 'Design for access and mobility'.

Reason: To ensure that the premises provide equitable access to all persons.

70. Before the issue of a Construction Certificate the owner or builder shall sign a written undertaking that they shall be responsible for the full cost of repairs to footpath, kerb and gutter, or other Council property damaged as a result of construction of the proposed development. Council may utilise part or all of any Building Security Deposit (B.S.D.) or recover in any court of competent jurisdiction, any costs to Council for such repairs.

Reason: To ensure that all damages arising from the building works are repaired at no cost to Council.

BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE FOR STAGE 4 **(involving the erection of the child care centre building)**

For the purpose of interpreting this consent the Certifying Authority (Council or an Accredited Certifier) is that person appointed to issue a Construction Certificate.

71. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. **Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.**

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact **with the Coordinator**, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

Sydney Water written advice that you have obtained the Notice of Requirements must be submitted to Council's satisfaction before the issue of a Construction Certificate.

Reason: To comply with the requirements of that Act.

72. A total monetary contribution of \$25,293.66 has been assessed as the contribution for the development under Section 94 of the Environmental Planning and Assessment Act 1979 and Marrickville Section 94 Contributions Plan 2004 (a copy of which may be inspected at the offices of the Council). The contribution is towards:-

- a) \$24,700.85 Section 94 Contributions Plan 2004 for Marrickville South Area - Traffic Management; and
- b) \$592.82 Plan Administration.

The monetary contributions above are the Council's adopted contributions under the current Fees and Charges Schedule. Under Marrickville Contributions Plan 2004, contributions will be adjusted at the time of payment in line with any change in the Consumer Price Index: All Groups Index Number for Sydney provided by the Australian Bureau of Statistics. The adjusted contribution payable will be the rate in the Council's adopted Fees and Charges Schedule for the financial year in which the contribution is paid.

The contribution (as adjusted) must be paid to the Council **in cash or by unendorsed bank cheque (from an Australian Bank only) or EFTPOS (Debit only)** before the issue of a Construction Certificate. Under Marrickville Section 94 Contributions Plan 2004 payment of Section 94 contributions **CANNOT** be made by Personal Cheque, Company Cheque or Credit Card.

NB: The above Contributions apply to end of Financial Year 2010/2011 after which the Contributions will be indexed.

Reason: To ensure provision is made for the increased demand for public amenities and services required as a consequence of the development being carried out.

73. Plans and specifications fully reflecting the recommendations contained in the Accessibility Report prepared by Accessibility Solutions dated 15 December 2009 submitted with the application for development consent being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate. To this extent appropriate details shall be submitted to and accepted by the Certifying Authority (Council or an Accredited Certifier) indicating the following:

- a) Access to the premises via the principal place of entry to the building and an accessible path of travel complying with AS 1428.1- 2009 'Design for access and mobility';
- b) Accessible toilets complying with AS 1428.1- 2009 'Design for access and mobility';
- c) The lift design shall comply with AS 1735.12 -1999 'Lifts, escalators and moving walkways Part 12: Facilities for persons with disabilities' as a minimum requirement; and
- d) An accessible counter complying with AS 1428.2 - 2001 'Design for access and mobility'.

Reason: To ensure that the premises provide equitable access to all persons.

74. Before the issue of a Construction Certificate the owner or builder shall sign a written undertaking that they shall be responsible for the full cost of repairs to footpath, kerb and gutter, or other Council property damaged as a result of construction of the proposed development. Council may utilise part or all of any Building Security Deposit (B.S.D.) or recover in any court of competent jurisdiction, any costs to Council for such repairs.

Reason: To ensure that all damages arising from the building works are repaired at no cost to Council.

SITE WORKS

75. All excavation, demolition, construction, and deliveries to the site necessary for the carrying out of the development, are restricted to between 7.00am to 5.30pm Mondays to Saturdays, excluding Public Holidays. Notwithstanding the above no work being carried out on any Saturday that falls adjacent to a Public Holiday.

Reason: To minimise the effect of the development during the construction period on the amenity of the surrounding neighbourhood.

76. Notwithstanding the above condition, all remediation works being restricted to between the hours of 7.00am and 6.00pm Mondays to Fridays and 8.00am to 1.00pm Saturdays with no works being carried out on Sundays and Public Holidays or any Saturday that falls adjacent to a Public Holiday.

Reason: To ensure that the remediation works are only carried out during the hours of operation permitted under Marrickville Development Control Plan No. 29 – Contaminated Land Policy and Development Controls.

77. The disposal of contaminated soil being carried out in accordance with the requirements of the New South Wales Environment Protection Authority.

Reason: To provide for correct disposal of wastes.

78. All works affecting the sandstone wall and quarry face being carried out under the supervision of skilled professionals. Appropriately experienced tradespeople shall be involved with the project.

Reason: To ensure that the works are guided by an appropriately qualified people to protect the heritage item.

79. The Conservation Management Plan policies and the Australia ICOMOS *Burra Charter* shall guide conservation and development of the site.

Reason: To ensure that the works are guided by established heritage best practice principles.

80. The site stabilisation, excavation and site works are to be carried out strictly in accordance with the Geotechnical Report approved under this Determination.

Reason: To ensure that site stabilisation, excavation and site works are carried out to a satisfactory standard.

81. The site stabilisation, site earthworks and excavations being undertaken in such a manner that the ground vibrations induced by the site works, excavation equipment and machinery are limited to a maximum Peak Particle Velocity [PPV] during excavation processes to 5mm/sec at the site boundaries, and 3mm/sec in the vicinity of the buildings / structures on the adjoining properties.

Reason: To minimise the effects of vibration on adjoining buildings during excavation.

82. The ground vibrations induced by the machinery and equipment used to create the site excavations are to be the subject of comprehensive monitoring and review by an appropriately qualified and experienced acoustic engineer.

Reason: To minimise the effects of vibration on adjoining dwelling houses during excavation.

83. The area surrounding the building work being reinstated to Council's satisfaction upon completion of the work.

Reason: To ensure that the area surrounding the building work is satisfactorily reinstated.

84. If it is necessary to excavate below the level of the base of the footings of a building on the adjoining allotments, including a public place such as footways and roadways, the person acting on this consent shall ensure:

- a) At least seven (7) days notice is given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice is to include complete details of the work.
- b) That any building is preserved and protected from damage.

Where a dilapidation report has not been prepared on any building adjacent to the excavation, the person acting on this consent shall be responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to be submitted to and accepted by the PCA before works continue on site, if the consent of the adjoining property owner can be obtained. Copies of all letter/s that have been sent via registered mail to the adjoining property owner and copies of any responses received shall be forwarded to the PCA before work commences.

Reason: To ensure that adjoining buildings are preserved, supported and the condition of the buildings on the adjoining property catalogued for future reference in the event that any damage is caused during work on site.

85. The works are required to be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another certifying authority. The last inspection (g) can only be carried out by the PCA. The critical stages of construction are:

- a) At the commencement of the building work, and
- b) After excavation for, and prior to the placement of, any footings, and
- c) Prior to pouring any in-situ reinforced concrete building element, and
- d) Prior to covering of the framework for any floor, wall, roof or other building element, and
- e) Prior to covering waterproofing in any wet areas, and
- f) Prior to covering any stormwater drainage connections, and
- g) After the building work has been completed and prior to any occupation certificate being issued in relation to the building.

You are advised to liaise with your PCA to establish if any additional inspections are required.

Reason: To ensure the building work is carried out in accordance with the Environmental Planning and Assessment Regulations and the Building Code of Australia.

86. The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council. The placement of waste storage containers in a public place

requires Council approval and shall comply with Council's Policy – 'Placement of Waste Storage Containers in a Public Place'. Enquiries are to be made with Council's Infrastructure Services Division.

Reason: To ensure the public ways are not obstructed and the placement of waste storage containers in a public place are not dangerous to the public.

87. All vehicles carrying materials to, or from the site must have their loads covered with tarpaulins or similar covers.

Reason: To ensure dust and other particles are not blown from vehicles associated with the use.

88. A certificate of survey from a registered land surveyor must be submitted to the PCA upon excavation of the footings and before the pouring of the concrete to verify that the structure will not encroach on the allotment boundaries.

Reason: To ensure all works are contained within the boundaries of the allotment.

89. All roof and surface stormwater from the site and any catchment external to the site that presently drains to it shall be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a Council controlled stormwater drainage system in accordance with the requirements of Marrickville Council Stormwater and On Site Detention Code. If the site stormwater is proposed to be connected to Sydney Water's stormwater drainage system then the connection shall comply with all of the requirements of Sydney Water.

Reason: To provide for adequate site drainage.

90. All stormwater drainage being designed in accordance with the provisions of the 1987 Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3.2-1998 'Stormwater Drainage-Acceptable Solutions' and Marrickville Council Stormwater and On Site Detention Code. Pipe and channel drainage systems shall be designed to cater for the ten (10) year Average Recurrence Interval (A.R.I.) storm in the case of low and medium residential developments, the twenty (20) year A.R.I. storm in the case of high density residential development and commercial and/or industrial developments and the fifty (50) year A.R.I. storm in the case of heavy industry. In all cases the major event surface flow paths shall be designed to cater for the one hundred (100) year A.R.I. storm.

Reason: To provide for adequate site drainage.

91. New or replacement taps being AAA rated as defined by the Australian Standard AS/NZ 6400 2005: Water efficient products - Rating and labelling.

Reason: To conserve water.

92. New or replacement toilet(s) being dual flush as defined by the Australian Standard AS/NZ 6400 2005: Water efficient products - Rating and labelling.

Reason: To conserve water.

93. New or replacement urinals being AAA rated.

Reason: To conserve water.

BEFORE OCCUPATION OF STAGE 2

94. You shall obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA shall notify the Council of the determination of the Occupation

Certificate and forward the following documents to Council within two (2) days of the date of the Certificate being determined:

- a) A copy of the determination;
- b) Copies of any documents that were lodged with the Occupation Certificate application;
- c) A copy of Occupation Certificate, if it was issued;
- d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
- e) A copy of any missed inspections; and
- f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.

Reason: To comply with the provisions of the Environmental Planning and Assessment Regulations.

95. Occupation of the building shall not be permitted until such time as:

- a) All preconditions to the issue of an Occupation Certificate specified in this development consent have been met;
- b) The building owner obtains a Final Fire Safety Certificate certifying that the fire safety measures have been installed in the building and perform to the performance standards listed in the Fire Safety Schedule; and
- c) An Occupation Certificate has been issued.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

96. The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, shall:

- a) Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of the New South Wales Fire Brigades and the Council; and
- b) Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every twelve (12) months after the Final Fire Safety Certificate is issued the owner shall obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate shall be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Reason: To ensure compliance with the relevant provisions of the Environmental Planning and Assessment Regulations and Building Legislation Amendment (Quality of Construction) Act.

97. A restriction as to user being registered against the title of the property, in accordance with Section 88E of the Conveyancing Act 1919, limiting the use of the residential care accommodation to the kinds of people referred to in Condition 2 of this Determination. The Restriction as to User is to include the Determination No. and its date of issue and include provisions that it can not be revoked or modified without the prior approval of Marrickville Council. The Restriction as to User being registered

at NSW Department of Lands before the issue of an Occupation Certificate for the Seniors Living component of the development.

Reason: To confirm the terms of Council's approval and to comply with the requirements of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

98. Upon the completion of any remediation works stated in the RAP the person acting on this consent shall submit to Council a Validation and Monitoring Report. The report is to be conducted in accordance with the NSW Environment Protection Authority's "*Guidelines for Consultants Reporting on Contaminated Sites 1998*".

Reason: To ensure that the remediated site complies with the objectives of the RAP.

99. On completion of the stabilisation works, excavation and earthworks the subject of the Geotechnical Report approved under this Determination, and before the issue of an Occupation Certificate for the development, the author of the Geotechnical Report is to provide the PCA with:

- a) A certificate to the effect that the works the subject of the Geotechnical Report have been completed in accordance with the Geotechnical Report. The certificate shall state that any amendments to the Geotechnical Report have been approved by the author of the Geotechnical Report; and
- b) A risk assessment of the stabilised Quarry Cliff Face in accordance with the guidelines published by the Australian Geomechanics Society [2007]. The risk assessment must indicate that the 'risk to property' is either 'Very Low', or 'Low', and that the 'risk to life' is 'acceptable'.

Reason: To appropriately monitor the installation of stabilisation works and to ensure the safety of the stabilised quarry face on completion of the works.

100. The separate lots comprising the development being consolidated into one lot and under one title and registered at the NSW Department of Lands before the issue of an Occupation Certificate (including any Interim Occupation Certificate) or before occupation of any part of the development, whichever occurs first.

Reason: To prevent future dealing in separately titled land.

101. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained before the issue of an Occupation Certificate.

Reason: To comply with the requirements of that Act.

102. The landscaping of the site being carried out prior to occupation or use of the premises in accordance with the approved plan, and being maintained at all times to Council's satisfaction.

Reason: To ensure adequate landscaping is maintained.

103. The Interpretation Plan referred to in this Determination being implemented to the satisfaction of the Council's Heritage and Urban Design Advisor before the issue of an Occupation Certificate.

Reason: To ensure that the approved Interpretation Plan is implemented.

104. Compliance with the requirements of Marrickville Development Control Plan No. 32 - Energy Smart Water Wise is to be demonstrated via completion of Council's Green checklist, which is to be completed by the Principal Certifying Authority (PCA) before

the issue of an Occupation Certificate. If completed by a Private PCA, a copy of the completed checklist must be forwarded to Council for its records.

Reason: To appropriately monitor the installation of energy and water conservation fixtures and appliances.

105. Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before occupation of the site.

Reason: To ensure there is no encroachment onto Council's road.

106. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before occupation of the site. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

Reason: To ensure that the person acting on this consent completes all required work.

107. An easement for drainage 2.5 metres wide in favour of Marrickville Council, being created over the full length of the nominal centreline of the Council controlled drainage system within the site of the proposed development, at no cost to Council. A dealing number for registration of the easement shall be obtained from the NSW Department of Lands before occupation of the site.

Reason: To provide for and protect the rights of Council to drain through the site of the proposed development.

108. All instruments under Section 88B of the Conveyancing Act used to create easements or right-of-ways shall include the condition that such easements or right-of-ways may not be varied, modified or released without the prior approval of Marrickville Council.

Reason: To ensure Council's interests are protected.

109. A linen plan of survey detailing any easements, the removal of redundant easements, splay corners and rights-of-way together with associated documents shall be lodged with the NSW Department of Lands at no cost to Council. A dealing number for registration of the easement shall be obtained from the NSW Department of Lands before occupation of the site.

Reason: To ensure compliance with conditions affecting the site title.

110. Heavy duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" shall be constructed at the vehicular access locations before occupation of the site and at no cost to Council.

Reason: To allow vehicular access across the footpath and/or improve the existing vehicular access.

111. All redundant vehicular crossings to the site shall be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" before occupation of the site and at no cost to Council. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb shall also be in stone.

Reason: To eliminate redundant crossings and to reinstate the footpath to its normal condition.

112. Before occupation of the site written verification from a suitably qualified professional civil engineer, stating that all stormwater drainage and related work has been and constructed in accordance with the approved plans shall be submitted to and accepted by Council. In addition, full works-as-executed plans, prepared and signed by a registered surveyor, shall be submitted to Council. These plans must include levels for all drainage structures, buildings (including floor levels), finished ground levels and pavement surface levels.

Reason: To ensure drainage works are constructed in accordance with approved plans.

113. All works required to be undertaken on public roads shall be designed and constructed in accordance with Council's standard crossing and footpath specifications, AUS-SPEC#2-"Roadworks Specifications" and Council's Stormwater and On Site Detention Code. The works shall be certified by a qualified civil engineer who is listed under the Institution of Engineers, Australia "National Professional Engineers Register" (NPER) and shall state that the works have been constructed in accordance with the above requirements before occupation of the site. In addition, full works-as-executed plans in both PDF and CAD format (dwg or dxf files), prepared and signed by a registered surveyor, shall be submitted to Council upon completion of the works.

Reason: To ensure that works are carried out to a proper standard.

114. The person acting on this consent shall, within fourteen (14) days of notification by Council, execute any and all maintenance works required by Council. In the event that the person acting on this consent fails to undertake such work, Council may undertake the required maintenance works, utilising part or all of the maintenance security and Council may recover any costs in excess of the security from the person acting on the consent.

Reason: To ensure all road and drainage works are maintained within a reasonable time limit during a 12 month maintenance period.

115. The person acting on this consent shall provide security, in a manner satisfactory to Council, for the proper maintenance of the road/drainage works in an amount of \$18,000 for a period of twelve (12) months from the date of completion of the Road/Drainage works as surety for the proper maintenance of the Road/Drainage works.

Reason: To provide security for the maintenance of Road/Drainage works for a 12 month maintenance period.

116. The street lighting at the Warne Place and Illawarra Road intersection shall be upgraded to comply with a minimum V4 category of lighting in accordance with AS1158.1.1:2005 at no cost to Council. The lighting being designed by a suitably experienced lighting engineer and the design shall also comply with AS4282 to ensure that no injury is caused to the amenity of the surrounding area by light overspill or obtrusive light. Plans shall be submitted to and approved by Council before submission to Energy Australia for implementation.

Reason: To ensure appropriate lighting is provided to create a safe environment and to protect the amenity of the surrounding neighbourhood from the emission of light.

117. Before the issue of the Occupation Certificate the person acting on this consent shall obtain from Council's Development Engineer a Certificate(s) of Satisfactory Completion stating that all Road, Footpath and Drainage Works required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council's approved plans and specifications.

Reason: To ensure that all Road, Footpath and Drainage Works required to be undertaken as a result of this development have been completed satisfactorily.

118. Council's relocated stormwater drainage line within the property shall be inspected by Closed Circuit Television (CCTV) upon completion and 2 CD copies shall be provided to Council prior to occupation of the site.

Reason: To ensure the pipeline has been constructed satisfactorily and has not been damaged during construction.

BEFORE OCCUPATION OF STAGE 3

119. You shall obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA shall notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within two (2) days of the date of the Certificate being determined:

- a) A copy of the determination;
- b) Copies of any documents that were lodged with the Occupation Certificate application;
- c) A copy of Occupation Certificate, if it was issued;
- d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
- e) A copy of any missed inspections; and
- f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.

Reason: To comply with the provisions of the Environmental Planning and Assessment Regulations.

120. Occupation of the building shall not be permitted until such time as:

- a) All preconditions to the issue of an Occupation Certificate specified in this development consent have been met;
- b) The building owner obtains a Final Fire Safety Certificate certifying that the fire safety measures have been installed in the building and perform to the performance standards listed in the Fire Safety Schedule; and
- c) An Occupation Certificate has been issued.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

121. The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, shall:

- a) Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of the New South Wales Fire Brigades and the Council; and

- b) Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every twelve (12) months after the Final Fire Safety Certificate is issued the owner shall obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate shall be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Reason: To ensure compliance with the relevant provisions of the Environmental Planning and Assessment Regulations and Building Legislation Amendment (Quality of Construction) Act.

- 122. Compliance with the requirements of Marrickville Development Control Plan No. 32 - Energy Smart Water Wise is to be demonstrated via completion of Council's Green checklist, which is to be completed by the Principal Certifying Authority (PCA) before the issue of an Occupation Certificate. If completed by a Private PCA, a copy of the completed checklist must be forwarded to Council for its records.

Reason: To appropriately monitor the installation of energy and water conservation fixtures and appliances.

- 123. Before the issue of the Occupation Certificate the person acting on this consent shall obtain from Council's Development Engineer a Certificate(s) of Satisfactory Completion stating that all Road, Footpath and Drainage Works required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council's approved plans and specifications.

Reason: To ensure that all Road, Footpath and Drainage Works required to be undertaken as a result of this development have been completed satisfactorily.

BEFORE OCCUPATION OF STAGE 4

- 124. You shall obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA shall notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within two (2) days of the date of the Certificate being determined:

- a) A copy of the determination;
- b) Copies of any documents that were lodged with the Occupation Certificate application;
- c) A copy of Occupation Certificate, if it was issued;
- d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
- e) A copy of any missed inspections; and
- f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.

Reason: To comply with the provisions of the Environmental Planning and Assessment Regulations.

- 125. Occupation of the building shall not be permitted until such time as:

- a) All preconditions to the issue of an Occupation Certificate specified in this development consent have been met;
- b) The building owner obtains a Final Fire Safety Certificate certifying that the fire safety measures have been installed in the building and perform to the performance standards listed in the Fire Safety Schedule; and
- c) An Occupation Certificate has been issued.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

126. The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, shall:

- a) Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of the New South Wales Fire Brigades and the Council; and
- b) Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every twelve (12) months after the Final Fire Safety Certificate is issued the owner shall obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate shall be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Reason: To ensure compliance with the relevant provisions of the Environmental Planning and Assessment Regulations and Building Legislation Amendment (Quality of Construction) Act.

127. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained before the issue of an Occupation Certificate.

Reason: To comply with the requirements of that Act.

128. The landscaping of the site being carried out prior to occupation or use of the premises in accordance with the approved plan, and being maintained at all times to Council's satisfaction.

Reason: To ensure adequate landscaping is maintained.

129. Compliance with the requirements of Marrickville Development Control Plan No. 32 - Energy Smart Water Wise is to be demonstrated via completion of Council's Green checklist, which is to be completed by the Principal Certifying Authority (PCA) before the issue of an Occupation Certificate. If completed by a Private PCA, a copy of the completed checklist must be forwarded to Council for its records.

Reason: To appropriately monitor the installation of energy and water conservation fixtures and appliances.

130. Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before occupation of the site.

Reason: To ensure there is no encroachment onto Council's road.

131. Before the issue of the Occupation Certificate the person acting on this consent shall obtain from Council's Development Engineer a Certificate(s) of Satisfactory Completion stating that all Road, Footpath and Drainage Works required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council's approved plans and specifications.

Reason: To ensure that all Road, Footpath and Drainage Works required to be undertaken as a result of this development have been completed satisfactorily.

ADVISORY NOTES

- A complete Building Code of Australia assessment of the application has not been carried out.
- The Disability Discrimination Act 1992 (Commonwealth) and the Anti-Discrimination Act 1977 (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.
- The approved plans must be submitted to the Customer Centre of any office of Sydney Water before the commencement of any work to ensure that the proposed work meets the requirements of Sydney Water. Failure to submit these plans before commencing work may result in the demolition of the structure if found not to comply with the requirements of Sydney Water.
- Useful Contacts

Dial Before You Dig

☎ 1100

www.dialbeforeyoudig.com.au

Department of Environment,
Climate Change and Water

☎ 9995 5000

www.environment.nsw.gov.au

Department of Fair Trading

☎ 13 32 20

www.fairtrading.nsw.gov.au

Enquiries relating to Owner Builder Permits
and Home Warranty Insurance.

Landcom

☎ 9841 8660

To purchase copies of Volume One of
"Soils and Construction"

Long Services Payments
Corporation

☎ 131441

<http://lspc.nsw.gov.au>

Marrickville Council

☎ 9335 2222

www.marrickville.nsw.gov.au

Copies of all Council documents and
application forms can be found on the web
site.

NSW Government

www.nsw.gov.au/fibro

www.diysafe.nsw.gov.au

Information on asbestos and safe work practices.

Sydney Water

☎ 13 20 92

www.sydneywater.com.au

Waste Service NSW
Environmental Solutions

– www.wasteservice.nsw.gov.au

WorkCover Authority of NSW

☎ 13 10 50

www.workcover.nsw.gov.au

Enquiries relating to work safety and asbestos removal and disposal.

- B. THAT** those persons who lodged submissions in respect to the proposal be advised of the Joint Regional Planning Panel's determination of the application.