

JRPP No:	2010SYE034
DA No:	DA10/0553
PROPOSED DEVELOPMENT:	Stage 1 of a Seniors Living Development – Construction of a 92 Bed Residential Aged Care Facility with Basement Car Park 86-110 Bellingara Road, Miranda – Lot 1 DP1097917
APPLICANT:	Hammond Care
REPORT BY:	Greg Hansell, Assessment Officer Planner Sutherland shire Council (02) 9710 0844

Assessment Report and Recommendation

1.0 EXECUTIVE SUMMARY

1.1 Reason for Report

Pursuant to the requirements of State Environmental Planning Policy (Major Development) 2005, this application is referred to the Joint Regional Planning Panel (JRPP) as the development has a capital investment value of more than \$10,000,000. The application submitted to Council nominates the value of the project as \$20,671,200.

1.2 Proposal

The application is for the construction of the first stage of a seniors housing development, consisting of a 92 bed residential aged care facility, at the above property.

1.3 The Site

The subject site is located on the eastern side of Bellingara Road, just south of Box Road.

1.4 The Issues

The main issues identified are as follows:

- Amenity impacts on the southern adjoining neighbours.
- Visual connection with public domain and other future stages of the development.
- Height to the uppermost ceiling.
- Car parking and traffic generation.

1.5 Conclusion

Following detailed assessment of the proposed development the current application is considered worthy of support, subject to minor amendments or conditions.

2.0 DESCRIPTION OF PROPOSAL

The proposed development is for the construction of the first stage of a seniors housing development, consisting of a 92 bed residential aged care facility located generally in the south-eastern corner of the site adjacent to Kiama Street. The proposal has been designed in accordance with an existing development consent for a 'staged development application' as defined under Section 83B of the Environmental Planning & Assessment Act, 1979.

The building essentially comprises of two (2) levels. The lower level incorporates car parking and servicing facilities and the upper level houses the residential accommodation. Due to the slope of the land, the lower level is partly underground.

Vehicular access to and from the basement car park and port cochere on the northern side of the building is provided via two (2) separate driveways in Kiama Street. Pedestrian access to the upper level entry of the building is provided via a pathway that links both street frontages. A pedestrian crossing in Bellingara Road is also proposed.

The proposed building includes the following key elements:

- Four (4) houses, each with 15 en-suite bedrooms together with communal lounge, dining, recreation and utility areas.
- Two (2) houses, each divided into two (2) high care groups of eight (8) en-suite bedrooms.
- Each house is single storey and adjoins a north facing outdoor recreation space.
- A two (2) storey administration building that includes reception, waiting, consulting, office and staff facilities.
- A single storey services building that includes a chapel.
- A basement containing 65 parking spaces, an ambulance bay, loading dock, laundry, waste storage, stormwater detention, general storage and a lift lobby.

Originally, it was intended to construct several of the independent living unit buildings as the first stage of construction. Upon further investigation, it has been confirmed that the most immediate demand is for the higher level of care, namely the residential aged care facility.

Whilst the current application contains 92 beds compared to 90 beds in the approved master plan, the proposed building fits generally within the footprint of the development approved in the master plan.



Figure 1: Site Plan of Proposal

3.0 SITE DESCRIPTION AND LOCALITY

The subject land is known as Nos. 86-110 Bellingara Road, Miranda. The site is currently vacant, but was previously occupied by Sydney Water Corporation and used as a works depot.



Figure 2: Site of Proposal looking south-west from Kiama Street

The site has an east-west orientation and is generally trapezoidal in shape. It has frontages of 242.26 metres to Bellingara Road and 196.30 metres to Kiama Street and a depth that varies between 180.36 metres and 331.83 metres. The site has a total area of 49,850 square metres.

The site falls away from Bellingara Road, generally in a south-easterly direction. There is an approximate change of levels between the highest and lowest points of the site of 13 metres.

There are a number of mature trees located throughout the site, mainly situated adjacent to the Bellingara Road frontage and, to a lesser extent, along the southern site boundary and in the middle of the site. A major electricity transmission easement, incorporating overhead power lines and a supporting pylon, traverses the site in a generally east-west alignment.

The street scene in the immediate vicinity of the subject land is characterised by residential, industrial and recreational development. Directly adjoining the site to the north are 1-2 storey industrial buildings. Directly adjoining the site to the south are detached dwelling houses of 1-2 storeys in scale. To the west of the site are detached dwelling houses, a residential aged care facility and a netball sports complex. To the east of the site are 1-2 storey industrial buildings.

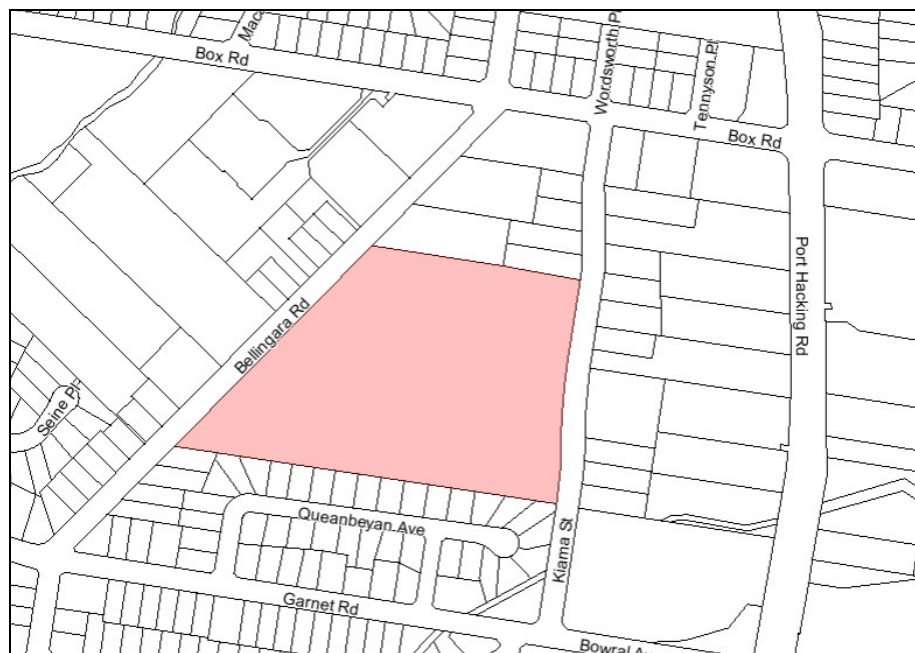


Figure 3: Location of Site



Figure 4: Aerial Photograph of Site

4.0 BACKGROUND

A history of the development proposal is as follows:

- Development consent was granted to a 'staged development application' for seniors housing consisting of a 90 bed residential care facility and up to 250 self-contained dwellings on 2 July 2009.
- The current application was submitted on 21 June 2010.
- The application was placed on exhibition with the last date for public submissions being 23 July 2010. Six (6) submissions including a late submission were received.
- An Information Session was held on 13 July 2010 and six (6) people attended.
- The application was considered by Council's Architectural Review Advisory Panel ('ARAP') on 22 July 2010.
- The application was considered by Council's Submissions Review Panel on 28 July 2010.
- The applicant was formally requested to address the issues raised by ARAP and surrounding occupants on 2 August 2010.
- The Sydney East JRPP was briefed on the application on 12 August 2010.
- Revised plans and additional information were submitted on 12 August 2010 and 24 August 2010.

5.0 ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the Statement of Environmental Effects, plans and other documentation submitted with the application or after a request from Council, the applicant has provided adequate information to enable an assessment of this application.

6.0 PUBLIC PARTICIPATION

The application was advertised in accordance with the provisions of Chapter 12 of Sutherland Shire Development Control Plan 2006 (SSDCP 2006). Four hundred and twenty (420) adjoining or affected owners and occupants were notified of the proposal and six (6) submissions, including a late submission, were received as a result.

Submissions were received from the owners or occupants of the following properties:

Address	Date of Letter	Issues
No. 93 & No. 95 Bellingara Road MIRANDA NSW 2228	18 July 2010	1, 5 & 6
No. 3 Queanbeyan Avenue MIRANDA NSW 2228	20 July 2010	1, 4, 7, 8 & 9
No. 6A/63 Bellingara Road MIRANDA NSW 2228	20 July 2010	2 & 3
No. 23/205 & No. 28/205 Port Hacking Road MIRANDA NSW 2228	22 July 2010	1 & 11
No. 2 Queanbeyan Avenue MIRANDA NSW 2228	23 July 2010	1, 4, 5 & 10
No. 13 Queanbeyan Avenue MIRANDA NSW 2228	30 July 2010	2, 12, 13 & 14

The revised plans that were submitted following the application's public exhibition and assessment by Council's Architectural Review Advisory Panel (ARAP) were not renotified. In this regard, SSDCP 2006 provides as follows:

"Where revised plans are submitted during the course of assessment and prior to Council's or the Court's determination, these revised plans will be publicly exhibited in the same manner as the original application, but only where the changes being sought intensify or change the external impact of the development to the extent that neighbours, in the opinion of Council, ought to be given the opportunity to comment."

The changes sought in the revised plans are not considered to intensify or change the external impact of the development to the extent that neighbours ought to be given the opportunity to further comment on those plans. The changes address issues raised by ARAP, Council Officers and surrounding residents and are relatively minor in nature compared to the overall development.

These changes include the relocation of the ground level egress path adjacent to the southern boundary further northwards; removal of the path on the southern side of

House 6 between the entry and Kiama Street and its replacement with planting; and additional detailing of the proposed privacy screen above the southern edge of the elevated deck adjacent to House 6 and proposed fences on the outer sides of the covered services corridors.

The issues raised in these submissions are as follows:

6.1 Issue 1 – Inadequate Car Parking

Inadequate off-street car parking is provided, particularly having regard to kerbside parking capacity constraints at times.

Comment: Whilst it is evident that Kiama Street adjacent to the site is heavily utilised for kerbside parking during weekdays in particular, the proposal is not likely to lead to increased competition for kerbside parking as on-site car parking well beyond the recommended standards has been provided. More than double the required car parking is provided within the basement car park on the site. In any event, the site has a considerable frontage to Kiama Street and it would be unreasonable for adjacent property owners to expect that such kerbside parking would be available for their exclusive use. As the proposal exceeds the minimum required number of on-site parking spaces for residents and visitors, it cannot be refused on such grounds.

Suitable operational conditions of development consent should be imposed so as to ensure that the on-site car parking spaces are available at all times for staff and visitors (refer Condition 58).

6.2 Issue 2 – Traffic Impact

The proposal will lead to increased traffic in Bellingara Road, which is already heavily utilised, particularly during netball season.

Comment: The proposal is not a significant traffic generator when compared to other commercial uses. It is not identified as a 'traffic generating development' under the Infrastructure SEPP. Most of the traffic generation will occur at limited times of the day (i.e. at staff arrival and departure times and at shift changes) and for limited durations. For the most part, the facility will be generating negligible traffic.

The applicant relies upon the traffic study that was submitted with the staged development application for the purposes of assessment of the traffic implications of the current application. This report demonstrates that the surrounding road system is capable of accommodating the additional traffic generation from the overall development, including the independent living units. No significant concerns have been raised by the NSW Roads & Traffic Authority or Council's Engineers with respect to traffic generation impacts of the proposal.

6.3 Issue 3 – Impact on Kerbside Parking

The vacant land where the proposal is sited is currently being used for overflow car parking purposes during netball season. Kerbside parking congestion in surrounding streets will worsen once this vacant land is no longer available for parking.

Comment: The land being used for overflow car parking associated with netball season is privately owned land. It is anticipated that the parking behaviour of netball patrons will be modified when this space is no longer available. This overflow car parking is likely to be accommodated by the surrounding road system during netball season.

6.4 Issue 4 – Noise Impact

Acoustic measures such as double glazing, increasing building setbacks, lowering the building, relocating the car parking and provision of earth mounding and screen planting are required to address potential noise impacts from visitor, staff and delivery vehicle movements and resident activities upon residential neighbours.

Comment: The general concerns over noise impacts from the operations of the facility have some merit, given that it will be a 24 hour a day operation. However, the suggestions of increasing the building setbacks, lowering the building and relocating the car parking are not reasonable, given that the proposal is compliant with the terms of the approved master plan with respect to the location of the car parking and associated vehicular access point and building footprint and envelope.

In terms of noise from plant, machinery and service vehicle movements, suitable conditions can be imposed to the effect that noise generated does not exceed accepted limits as provided for in noise pollution control legislation (refer Conditions 61 and 68). Noise associated with car movements to and from the site is not considered to be of such significance given the relatively minor traffic generating potential of the proposal and the nature of the movements, being mainly by staff and particularly limited at night. Noise from residents inside the building can be mitigated by suitable conditions of consent requiring acoustic attenuation of the building in its construction (refer Condition 18).

6.5 Issue 5 – Impact on Trees

Trees should be retained and adequately protected during construction, particularly as they are inhabited by much birdlife and other fauna.

Comment: The majority of trees in the immediate vicinity of the proposal, including the north-south row of trees, have been authorised for removal in the granting of development consent to the staged development application. The protection of those few trees identified for retention in the current development application can be addressed by suitable conditions of development consent (refer Conditions 44 and 45). Other trees on the site, outside of the extent of the works for this first stage, are not proposed to be removed at part of this application.

6.6 Issue 6 – Impact of Pedestrian Crossing

The proposed pedestrian crossing should be limited in width to enable easy access to properties either side and sufficient kerbside for placement of waste bins on collection days.

Comment: A suitable condition of development consent can be imposed to the effect that the detailed design of the pedestrian crossing makes appropriate provision for

safe and convenient vehicular access to and from the driveway crossings either side (refer Condition 11(j)). There is ample kerbside space in the vicinity of the location of the pedestrian crossing to accommodate the bins of those residents without adversely impacting on the bin placement needs of other residents.

6.7 Issue 7 – Encroachment on Right-of-Way

The development should not encroach upon the Council right-of-way along the southern boundary of the site.

Comment: A search of Council's records reveals that there is no right-of-way in favour of Council along the southern boundary of the site, notwithstanding the existence of the chain wire fence that is set back some three (3) metres inside the property boundary.

Council's records indicate that the applicant owns this strip of land and it forms part of the overall landholding known as Nos. 86-110 Bellingara Road. It is noted that there is a sewer line within this strip of land that will need to be taken into consideration at the construction certificate stage, having regard to the requirements of Sydney Water Corporation. It appears that the chain wire fence may have been constructed off the boundary as an additional site security measure.

6.8 Issue 8 – Lighting Impact

External lighting should be subdued sufficiently so as not to cause a glare nuisance to residential neighbours.

Comment: This concern is legitimate given the scale and nature of the proposal (particularly its continuous 24 hours a day operation) and its proximity to a low density residential neighbourhood. The effects of light spill and illumination intensity from external lighting on adjacent residents could be significantly adverse if not properly controlled.

Suitable conditions of development consent can be imposed to the effect that all external lighting is designed, constructed and operated in accordance with the requirements of 'Australian Standard AS4282 (1997) – Control of the Obtrusive Effects of Outdoor Lighting' and any baffles, shields and/or louvres that are required for the purposes of satisfying AS4282 are treated so as to avoid a glare nuisance (refer Condition 25 and 60).

6.9 Issue 9 – Impact of Trees on Solar Access

Trees planted along the southern boundary should be of a height that does not block sunshine to the yards of the residential neighbours.

Comment: The landscape concept plan submitted with the application indicates the planting of trees adjacent to the southern boundary, but at reasonable intervals and in small groups. The indicative plant list also provides for a variety of trees of varying heights and spreads. Generally speaking, a reasonable balance between the competing requirements of solar access to neighbours and planting for screening purposes has been achieved. With respect to the adjoining residents that raised this

concern, suitable conditions of development consent that restrict the height of the proposed trees adjacent to their rear boundary can be imposed (refer Condition 10).

6.10 Issue 10 – Impact of Building on Privacy and Solar Access

The building should be set back sufficiently so as to ensure that the yards of the residential neighbours are not overlooked by residents of the facility and not overshadowed by the building.

Comment: The proposed building fits within the approved building footprint and envelope which, at the time of determination of the staged development application, were deemed acceptable in terms of maintaining reasonable solar access to the residents to the south. The ample building setbacks, together with the screening device on the outer edge of the elevated deck as recommended by Council's architect (refer Condition 9(a)), ensures that no unacceptable overlooking will arise.

6.11 Issue 11 – Incompatibility of Use with Industry

Aged care facilities and industries in the same street are incompatible having regard to potential safety concerns as a result of existing heavy vehicle traffic using Kiama Street.

Comment: The site was rezoned in 2006 from 'Special Uses (Depot)' to 'Special Uses (Seniors Housing)' specifically so as to permit and encourage its redevelopment for seniors housing. This rezoning was undertaken in the full knowledge that the opposite side of Kiama Street was zoned for industrial purposes.

Given the proposed facility will, for the most part, generate negligible traffic and pedestrian movements (particularly amongst the elderly age groups), it is considered that such conflict will also be negligible. Suitable conditions of development consent requiring acoustic attenuation measures to be incorporated into the design and construction of the building can be imposed so as to minimise potential adverse noise impacts from surrounding land uses upon future occupants of the facility (refer Condition 18).

The orientation of the individual bedrooms southwards and northwards, rather than eastwards in the direction of the factories and warehouses opposite in Kiama Street, will further assist in mitigating against potentially adverse noise impacts. Future resident complaints to Council would only place constraints on business if they are found to be operating outside of their conditions of consent or applicable noise emission limits.

6.12 Issue 12 – Suggested Alternative for Vehicular Access

The car park should be sited in the northern part of the site to take advantage of the existing footpath crossing in Kiama Street.

Comment: The proposed siting of the basement car park and associated vehicular access point is consistent with the approved plans associated with the staged development application.

6.13 Issue 13 – Impact of Vehicles on Structural Integrity

Vibrations caused by delivery and other vehicles will disturb residents and possibly cause structural damage to adjacent homes.

Comment: Suitable conditions of development consent addressing construction management, including the requirement for a pre-development dilapidation report, can be imposed to minimise such impacts as far as practicable (refer Conditions 21, 22, 23, 24 and 36).

6.14 Issue 14 – Impact on Property Values

The proposal will result in the depreciation of value of adjacent residential properties.

Comment: It is acknowledged that the proposal, by virtue of its nature and size, may impact on the values of surrounding properties. It must also be acknowledged that the site in its vacant form, at present, may have impacts on surrounding property values. Redevelopment will serve to remove uncertainty over the future of the site. Property values are affected by many factors and it is difficult to quantify the impact of any one factor, such as a new development in an area. This is not considered to be a matter for consideration under Section 79C(1) of the Environmental Planning & Assessment Act, 1979 and an issue of such significance as to warrant refusal of the proposal.

7.0 STATUTORY CONSIDERATIONS

The subject land is located within Zone 12 – Special Uses (Seniors Housing) pursuant to the provisions of Sutherland Shire Local Environmental Plan 2006. The proposed development, being ‘seniors housing’ consisting of a residential care facility, is a permissible land use within the zone with development consent.

The following Environmental Planning Instruments (EPI's), Development Control Plans (DCP's), Codes or Policies are relevant to this application:

- State Environmental Planning Policy No. 55 – Remediation of Land ('SEPP 55')
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 ('Seniors SEPP')
- State Environmental Planning Policy (Infrastructure) 2007 ('Infrastructure SEPP')
- State Environmental Planning Policy (Major Development) 2005
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sutherland Shire Local Environmental Plan 2006 ('SLEP 2006')
- Sutherland Shire Development Control Plan 2006 ('SSDCP 2006')

8.0 STATEMENT OF COMPLIANCE

The statement of compliance below contains a summary of applicable development standards and controls and a compliance checklist relative to these:

Standard/Control	Required	Proposed	Complies? (% Variation)
Sutherland Shire Local Environmental Plan 2006			
Clause 33(4)(a) – No. of Storeys	2 (max)	1-2	Yes – See Note 1 below
Clause 33(4)(b) – Height to Ceiling	7.2m (max)	9.46m (max)	No – See Note 1 below
Clause 33(4)(b) – Height to Roof	9m (max)	9.8m (max)	No – See Note 1 below
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004			
Clause 40(2) – Site Size	1000m ² (min)	49,850m ²	Yes
Clause 40(3) – Site Frontage	20m (min)	195m (min)	Yes
Clause 48(a) – Building Height	8m (max)	9.46 m (max)	No (18%) – See Note 2 below
Clause 48(b) – Floor Space Ratio	1:1 (max)	0.35:1	Yes – See Note 3 below
Clause 48(c) – Landscaped Area	25 square metres per dwelling (min)	109 square metres per dwelling	Yes – See Note 3 below
Clause 48(d) – Car Parking	1 space/10 beds 1 space/2 staff 1 ambulance 30 spaces in total	66 spaces	Yes

General Note:

The development standards in the Seniors SEPP referred to above, other than those relating to site size and site frontage, are standards that, if complied with, cannot be used to refuse development consent. Furthermore, these standards do not impose any limitations on the grounds on which a consent authority may grant development consent. On this basis, a consent authority may grant development consent to a development application for seniors housing that contains proposed buildings greater than eight (8) metres in height, as is proposed in this application.

Note 1:

The building height provisions in Clause 48(a) of the Seniors SEPP are inconsistent with the building height provisions in Clause 33 of SSLEP 2006. On this basis, the provisions of the Seniors SEPP prevail in the assessment of the proposal in relation to building height.

Note 2:

The non-compliance affects a relatively minor portion of the built form and relates to a high level window element within the roof bulk on House 6. This element is consistent with the presentation of other buildings in the development and is partly a consequence of the siting of House 6 on a lower contour.

Note 3:

The above calculations for floor space ratio and landscaped area are based on a nominal site area of 18,537 square metres. This nominal site area basically equates

to that part of the overall site upon which the residential aged care facility is located and excludes those areas of the overall site that are devoted to the subsequent stages.

The residential care facility building is contained within the building footprint and envelope as detailed on the master plan drawings and comprises only 17.5% of the allowable 0.75:1 floor space ratio across the entire site as provided for in Condition 1(a) of the development consent for the staged development application. The remainder of the overall site is proposed to accommodate another 11,500 square metres of landscaped area which, together with the landscaped area associated with the proposed residential aged care facility, represents 43% of the total site area.

It will be incumbent upon subsequent development applications to demonstrate compliance with the approved building envelopes and footprints and that the allowable 0.75:1 floor space ratio across the entire site will not be exceeded at completion of the overall development.

9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

The application was referred to the following internal and external specialists for assessment and the following comments were received:

9.1 NSW Police Force

A crime risk evaluation carried out by the NSW Police Force has identified a 'low crime risk' rating for the proposal. Several crime prevention measures have been suggested for Council's consideration including lighting, landscaping, closed circuit television, security shutters, graffiti resistant finishes, alarms and other measures. Where practicable, these measures can be readily addressed by suitable conditions of consent. A full copy of this external report is provided in Appendix "A".

9.2 NSW Roads & Traffic Authority

No concerns are raised by the NSW Roads & Traffic Authority in terms of the impact of the proposal on its main road network and operations. The comments provided with respect to trip generation rates are not relevant to the subject proposal as it does not include any self-contained dwellings. The subsequent development applications for the independent living units will need to revisit these comments. The other matters raised have been duly considered by various Council officers in their assessment of the proposal and can be readily addressed by suitable conditions of consent, where appropriate. A full copy of this external report is provided in Appendix "B".

9.3 Energy Australia

No comments have been received from Energy Australia with regard to potential safety risks associated with the easement for electricity transmission and associated infrastructure that traverses the site, following consultations carried out in accordance with Clause 45 of the Infrastructure SEPP. However, it is noted that the proposed building is located outside the easement and only landscaping and pedestrian and vehicular access are proposed within the easement.

9.4 Architectural Review Advisory Panel

Council's Architectural Review Advisory Panel ('ARAP') considered this application at its meeting held on 22 July 2010. The report of ARAP was based on the plans that were submitted upon lodgement of the application. A fully copy of this internal report is provided in Appendix "C". This report concluded as follows:

"The proposed building will function well as a residential aged care facility and will provide a high level of amenity for its residents.

It is unclear how the proposal will relate to its context. The detail treatment of the building edges is also unclear. From the documentation provided it appears that the proposal will appear harsh and institutional and relate poorly to its immediate context.

A public domain plan and further detail information relating to the edge treatment of the proposal is required to determine how the proposal relates to its context."

9.5 Council's Assessment Architect

Council's architect has assessed the revised plans and additional information submitted in response to the report of the ARAP and concludes that the proposal will offer a high level of amenity to its future occupants and is of an appropriate scale and density. It is advised that some of the issues raised by the ARAP have been resolved to a degree, whilst other issues such as contextual and aesthetic considerations remain outstanding. Importantly, the applicant has made some small, but helpful, revisions to improve privacy for the neighbours to the south and better integrate the facility visually with subsequent stages of the development and the public domain. A full copy of this internal report is provided in Appendix "D".

9.6 Traffic Engineer

Council's traffic engineer has undertaken an assessment of the application with respect to the proposed pedestrian crossing in Bellingara Road and advised that, subject to suitable conditions of development consent, no objection is raised to the proposal. The proposed location and type of pedestrian crossing is considered acceptable. A full copy of this internal report is provided in Appendix "E".

9.7 Community Services

Council's community services unit has undertaken an assessment of the application with respect to crime risk and access for people with disabilities and advised that, subject to suitable conditions of development consent, no objection is raised to the proposal. A full copy of this internal report is provided in Appendix "F".

9.8 Landscape Architect

Council's landscape architect has undertaken an assessment of the application with respect to tree retention and removal and landscaping and advised that, subject to suitable conditions of development consent, no objection is raised to the proposal. The proposed tree planting and landscaping measures are considered to be acceptable. A full copy of this internal report is provided in Appendix "G".

9.9 Environmental Scientist

Council's environmental scientist has undertaken an assessment of the application with respect to potential site contamination and acid sulfate soils and advised that, subject to suitable conditions of development consent, no objection is raised to the proposal. It was noted in the previous assessment report relating to the staged development application that the most recent site audit statement has certified that the land is suitable for the proposed use. A full copy of this internal report is provided in Appendix "H".

9.10 Environmental Health

Council's environmental health officer has undertaken an assessment of the application with respect to ventilation, noise impacts from the operation of the facility and noise impacts from traffic using Port Hacking Road and adjacent industrial activities and advised that, subject to suitable conditions of development consent, no objection is raised to the proposal. A full copy of this internal report is provided in Appendix "I".

9.11 Engineering

Council's development engineer has undertaken an assessment of the application with respect to stormwater management, vehicular access, car parking and servicing arrangements, traffic management, site management and road frontage works requirements and advised that, subject to suitable conditions of development consent, no objection is raised to the proposal. A full copy of this internal report is provided in Appendix "J".

9.12 Building

Council's building surveyor has undertaken an assessment of the application with respect to the provisions of the Building Code of Australia and advised that, subject to suitable conditions of development consent, no objection is raised to the proposal. A full copy of this internal report is provided in Appendix "K".

10.0 ASSESSMENT

Following a detailed assessment of the application having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 and the provisions of relevant environmental planning instruments, development control plans, codes and policies, the following matters are considered important in the assessment of this application.

10.1 Consistency with Staged Development Application

Council, by notice of determination of 2 July 2009, granted development consent to a 'staged development application' for a seniors housing development on the site comprising of a 90 bed residential care facility, a maximum of 250 self-contained dwellings within 11 separate buildings varying from three (3) to six (6) storeys in height and a community centre.

The approved concept plans include basic details of building uses, building footprints and height planes, numbers of storeys, articulation zones, open space and

landscaping arrangements, tree removal/retention, car parking areas, internal vehicular and pedestrian circulation arrangements and vehicular access points.

The development application did not include detailed proposals for the first stage of the development. It envisaged that the development would be constructed in up to six (6) stages, with the community centre and some surrounding independent living buildings being constructed first, followed by the residential care facility and then the remaining independent living unit buildings, subject to on-going review and market conditions.

Section 83D(2) of the Environmental Planning & Assessment Act, 1979, provides as follows, with respect to the status of development consents for staged development applications:

“While any consent granted on the determination of a staged development application for a site remains in force, the determination of any further development application in respect of that site cannot be inconsistent with that consent.”

A comparison of the current development application with the development consent for the staged development application reveals no inconsistency in this respect. The minor difference in the number of beds is inconsequential, given that the proposal fits within the endorsed building footprints and envelopes and the 92 bed configuration now arrived at has been driven to some extent by operational requirements associated with dementia care. Such negligible variations are not considered to cause a proposal to become ‘inconsistent’ within the meaning of that term and would have been anticipated when the above provisions were drafted.

The specific modifications/requirements, as set out in Condition 1 of the development consent for the staged development application and of particular relevance to the current application, are addressed as follows.

“(a) The buildings comprising the community centre, residential care facility, self-contained dwellings and car parking shall be contained wholly within the building footprints and envelopes as detailed on the Master Plan drawings prepared by Allen Jack & Cottier Architects with a floor space ratio across the entire site not exceeding 0.75:1”

Comment: This condition was imposed to ensure that overshadowing, overlooking and visual bulk impacts were constrained and could not be increased. In particular, the approved building footprints and envelopes are based on the premise that adjoining residents to the south of the site will maintain reasonable solar access.

The residential care facility building is contained within the building footprint and envelope as detailed on the approved master plan drawings and comprises only 17.5% of the allowable 0.75:1 floor space ratio across the entire site. It will be incumbent upon subsequent development applications to demonstrate that the approved building envelopes and footprints for the independent living unit buildings are complied with, and that the allowable 0.75:1 floor space ratio across the entire site will not be exceeded at completion of the overall development.

“(b) A pedestrian link shall be provided for the entire length of the central north-south internal access road”

Comment: This condition was imposed with a view to ensuring that the north-south internal access road (immediately to the west of the residential aged care facility) was amenable to pedestrians and did not simply ‘feel like’ a rear service lane.

The approved pedestrian access plan that accompanies the staged development application designates such a pathway generally adjacent to the independent living unit buildings and community centre building on the opposite side of the north-south internal access road. This pathway is primarily intended to serve the occupants of those buildings. The public domain plan submitted with the current application reinforces this arrangement. As such, there is no necessity for such a pathway to be provided at this stage of the project.

“(c) The building facades addressing the north-south internal access road shall include elements to provide an active frontage and enhance pedestrian activity and passive surveillance along this road”

Comment: The relevant building facades of the proposed residential aged care facility do not include elements that provide an active frontage and enhance pedestrian activity, such as building entries. However, a small degree of passive surveillance is achieved through the provision of a sitting room window in each of the houses that looks out onto the internal road and the provision of semi-transparent fencing between the facility and the road. Further changes that increase the transparency of the fencing are recommended by Council’s architect. These changes can be addressed by suitable conditions of development consent (refer Condition 9(b)).

Notwithstanding the above comments, it is important to recognise that there will be two (2) independent living buildings and a community centre building on the opposite side of the internal access road and these buildings will provide additional and better opportunities for addressing the above requirements. As such, it is considered that the above requirements have been addressed, as far as practicable, at this stage of the project.

“(d) Mass planting, including a continuous interlocking tree canopy and an understorey of shrubs and groundcovers, shall be provided for the entire length of the southern and northern boundaries of the site. The planting along the southern boundary must be selected with the protection of privacy to adjoining residential properties as a primary objective”

Comment: This condition was imposed due to concerns raised by adjacent residents over potential overlooking impacts and to reflect and reinforce the details on the approved landscape concept plans, which designated the northern and southern peripheries of the site as wildlife corridors.

The applicant has submitted a detailed landscape concept plan that provides for such planting along the southern boundary to the satisfaction of Council’s landscape architect.

“(e) An additional east-west wildlife corridor shall be provided through the site, generally in the vicinity of the electricity transmission easement”

Comment: This condition was imposed due to the site’s location within a designated green web corridor in Council’s Green Web Strategy and the additional opportunities presented by the electricity transmission easement.

The applicant has submitted a detailed landscape concept plan that designates much of the electricity transmission easement, directly to the north of the facility, as a proposed vegetation corridor including native planting to encourage its use as a wildlife corridor. Council’s landscape assessment officer has reviewed the indicative plant list for this vegetation corridor and is satisfied with the plant selection.

“(f) Plans for the provision of a pedestrian crossing on Bellingara Road must be developed in consultation with Council and submitted with the stage 1 development application”

Comment: This condition was imposed on the basis of the staging plan that showed three (3) of the independent living unit buildings and the community centre building as the first stage and so that residents in Bellingara Road were made fully aware of the proposed location and type of pedestrian crossing and afforded the opportunity to comment.

The current application includes details of the location and type of pedestrian crossing and Council’s traffic engineer is satisfied with these details.

“(g) The stormwater drainage plan for the site must be submitted with the stage 1 development application demonstrating that the stormwater generated by the entire development can be dealt with in a manner that will not cause or contribute to local flooding”

Comment: This condition was imposed due to concerns raised by surrounding businesses and residents that the development may contribute to local flooding that occurs from time to time adjacent to the open stormwater drainage channel located approximately 60 metres to the south of the site.

The applicant has submitted a detailed stormwater management plan, together with a catchment analysis and supporting technical data, demonstrating to the satisfaction of Council’s engineer that stormwater generated by the entire development can be dealt with in a manner that will not cause or contribute to local flooding.

10.2 Type of Residential Accommodation

Clause 11 of the Seniors SEPP provides as follows:

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

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

The plans and supporting information accompanying the development application clearly demonstrate that the proposal comfortably falls within the above definition of a 'residential care facility'.

10.3 Location and Access to Services

The applicant has provided satisfactory written evidence that demonstrates how residents of the proposed development will have access to the necessary services and facilities, in accordance with the provisions of Clause 26 of the Seniors SEPP. In this regard, there is a regular bus service (Route 972 operated by Veolia Transport) that includes bus stops immediately adjacent to the site in Bellingara Road and that can take residents to Miranda and Southgate shopping centres.

The pedestrian routes between the site and the bus stops on both sides of Bellingara Road provide for suitable gradients, although it will be necessary to incorporate a pedestrian crossing so as to make access to and from the bus stop across the road as safe as possible. A sealed footpath along the frontage of the site so as to ensure suitable access to the other bus stop is also required. Suitable conditions of development consent can be imposed to ensure that these pedestrian access facilities are provided in conjunction with the development (refer Conditions 11(h), 11(i), 11(j) and 11(k)).

The applicant also indicates they will provide a bus service for residents and visitors to access services and facilities outside of the site. This can be reinforced through a suitable condition of development consent (refer Condition 64).

10.4 Water and Sewer

Reticulated water and sewerage infrastructure is presently available to the site. The applicant has submitted plans and written information that demonstrates that the housing will be connected to a reticulated water system and has adequate facilities for the removal of sewage, in accordance with the provisions of Clause 28 of the Seniors SEPP.

10.5 Site Compatibility

The proposal is considered to satisfy the relevant site compatibility criteria as set out in Clause 25 of the Seniors SEPP. The proposal is considered to be compatible with the surrounding land uses, having regard to the following factors:

- The site is not subject to any natural hazard risks such as flooding or bushfire.
- The site has no known significant environmental values such as remnant bushland or endangered flora and fauna.
- Much of the adjoining development to the south and west of the site is residential in character.
- The adjacent industrial and service-type activities to the north and east of the site are generally of a low intensity and impacts can be mitigated.
- The site is already provided with the necessary water and sewerage infrastructure.
- Regular bus services that access local services and facilities operate adjacent to the site.
- Ample building setbacks are provided to common boundaries shared with adjoining detached housing, such that visual bulk, overlooking and overshadowing impacts on adjoining residents are not unreasonable.

10.6 Site Analysis

The applicant relies upon the comprehensive site analysis submitted with the staged development application for the purposes of assessment and determination of the current application. This site analysis is considered satisfactory in terms of the requirements as outlined in Clause 30 of the Seniors SEPP. The development application clearly demonstrates that the proposal has evolved from a proper site analysis that identifies the key opportunities and constraints of the site.

10.7 Design Principles

Clause 32 of the Seniors SEPP requires that Council must not consent to a development application unless it is satisfied that the proposal demonstrates that adequate regard has been given to design principles relating to neighbourhood amenity and streetscape, visual and acoustic privacy, solar access and design for climate, stormwater, crime prevention, accessibility and waste management. The relevant design principles are discussed as follows.

10.7.1 Neighbourhood Amenity and Streetscape

“The proposed development should recognise the desirable elements of the location’s 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”

Comment: It is considered that adequate regard has been given to this design principle. Much of the general locality is characterised by low-scale residential buildings with ample boundary setbacks. Buildings are also well set back from the streets and behind landscaping. This character creates a feeling of spaciousness. The proposal recognises this positive feature by incorporating ample building setbacks to site boundaries and even greater setbacks at the upper floor level and ample separation between the individual houses within the development, together with proposed tree planting within these setback areas and open spaces.

“The proposed development should maintain reasonable neighbourhood amenity and appropriate residential character by providing building setbacks to reduce bulk and overshadowing”

Comment: It is considered that adequate regard has been given to this design principle. The ample building setbacks to the southern boundary of the site, together with the proposed tree and shrub planting within the setback areas, will ensure that the visual bulk of the proposal is reasonable in its residential context. The upper residential floor is further set back, further alleviating visual bulk.

The overshadowing impact on the rear yards of residents to the south will not be unreasonable given that the built form is consistent with the approved building footprint and envelope that formed part of the staged development application and given that the footprint and envelope were established on the basis of providing a reasonable level of solar access in accordance with AMCORD.

“The proposed development should maintain reasonable neighbourhood amenity and appropriate residential character by using building form and siting that relates to the site’s landform”

Comment: It is concluded that adequate regard has been given to this design principle. The built form ‘steps down’ the site in a southerly direction in keeping with the landform, such that it does not exceed two (2) storeys where it interfaces with the residential area of Queanbeyan Street. Furthermore, the relationship of the built form to the slope of the land is considered adequate given that it complies with the approved building footprint and envelope and was viewed acceptable in the context of the overall development of the site when the master plan was being considered.

“The proposed development should maintain reasonable neighbourhood amenity and appropriate residential character by adopting building heights at the street frontage that are compatible in scale with adjacent development”

Comment: It is considered that adequate regard has been given to this design principle. The height and two (2) storey scale of the residential care facility at its frontage with Kiama Street is considered to be reasonably compatible with the heights and 1-2 storey scale of the adjacent detached dwelling houses.

“The proposed development should 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”

Comment: It is considered that adequate regard has been given to this design principle. The setback of the building from the street frontage fits reasonably within the context of the established building lines.

“The proposed development should embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape”

Comment: It is considered that adequate regard has been given to this design principle. Extensive plantings of native and exotic species are provided throughout the development and at its peripheries, consistent with other planting in the streetscape.

“The proposed development should retain, wherever reasonable, major existing trees”

Comment: It is considered that adequate regard has been given to this design principle. The proposal retains those trees at the peripheries of the building that were identified for retention in the development consent for the staged development application.

10.7.2 Visual and Acoustic Privacy

“The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping”

Comment: It is considered that adequate regard has been given to this design principle. The proposed building setbacks to the southern boundary, together with the proposed screening device on the outer edge of the elevated deck and tree planting within the setback area ensure that adequate visual and acoustic privacy is achieved for the adjacent neighbours. It should also be noted that the applicant has removed a superfluous part of the pathway on the elevated deck at the south-eastern corner of House 6 and provided additional planting in its place. This modification further assists in maintaining the visual and acoustic privacy of the neighbours. The outdoor recreational spaces and the majority of the indoor communal areas are located on the northern side of Houses 5 and 6, well removed from the adjacent residents.

10.7.3 Solar Access and Design for Climate

“The proposed development should 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”

Comment: It is considered that adequate regard has been given to this design principle. The approved building envelope and footprint for the residential aged care facility already ensures reasonable solar access for the residents to the south. The current application fits within the approved building envelope and footprint. The applicant has submitted shadow diagrams demonstrating that residents of the detached dwelling houses directly to the south of the site will receive reasonable solar access with respect to their main living areas and private outdoor areas, having regard to the relevant requirements as set out in *AMCORD: A National Resource Document for Residential Development, 1995*.

“The proposed development should 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”

Comment: It is considered that adequate regard has been given to this design principle. The proposal has been designed to maximise cross ventilation and access to sunlight and northerly sunshine in main communal/living spaces, such that energy use will be reduced and thermal comfort increased.

10.7.4 Stormwater

“The proposed development should 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”

Comment: It is considered that adequate regard has been given to this design principle. A substantial part of the area outside of the building footprint is to be landscaped by way of plantings and permeable surfaces.

“The proposed development should include, where practical, on-site stormwater detention or re-use for second quality water uses”

Comment: It is considered that adequate regard has been given to this design principle. The stormwater drainage plan submitted with the application indicates a range of measures that are intended to be incorporated for the purposes of minimising the impacts of stormwater runoff. These measures include the provision of deep soil areas incorporating soft landscaping, a stormwater retention and re-use tank, vegetated swales to filter stormwater runoff and rainwater storage tanks.

10.7.5 Accessibility

“The proposed development should have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities”

Comment: It is considered that adequate regard has been given to this design principle. The site is well within 400 metres walking distance of a bus service that provides access to Miranda and Sylvania (Southgate) commercial centres. The route for this path is direct and safe. Subject to the provision of the proposed pedestrian crossing in Bellingara Road adjacent to the site and improvements to the footpath network in the vicinity, pedestrian accessibility from the site to public transport and local facilities will be adequate.

“The proposed development should provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors”

Comment: It is considered that adequate regard has been given to this design principle. Within the site, pedestrian and vehicular access is to be segregated. Extensive landscaping is proposed adjacent to the driveway and pathway on the northern side of the facility and along the pathways throughout the facility. The basement car parking spaces are adequate in number and conveniently accessible. The provision of the separate driveway on the northern side of the facility leading to a port cochere and main entry will be advantageous for those visitors seeking to stop for a short duration to pick-up or set-down residents.

The proposed pathway that is to provide access between the ground level building entry and Bellingara Road will need to make provision for disabled access, additional low-level planting and appropriate lighting such that it can be attractive and safe for pedestrians. A suitable condition of development consent has been imposed to this effect (refer Conditions 10 and 13).

10.7.6 Waste Management

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

Comment: It is considered that adequate regard has been given to this design principle. The proposal is to incorporate waste facilities that separate recyclables from other waste and allow for their separate collection.

10.8 Building Height

Clause 48(a) of the Seniors SEPP provides as follows:

*“A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds.....**building height:** if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys)”*

The uppermost ceiling in House 6 is up to 9.46 metres above ground level near its eastern end. As the proposal exceeds 8 metres in height to the uppermost ceiling, the consent authority may refuse consent to the proposal on the grounds of building height.

The excessive height affects a relatively minor portion of the built form and relates to the high level window elements within the roof bulk. These elements are consistent with the presentation of other buildings in the development and offer a substantial benefit in terms of improved access to natural light. The excessive height is also partly a consequence of the land being at its lowest point in the vicinity of House 6.

Notwithstanding the excessive height as a consequence of the high level window elements in the roof, it is considered that the height of House 6 is acceptable on merit having regard to the design principles in the Seniors SEPP.

The majority of the ceiling within House 6 is some 3 metres lower than the ceiling of the roof element. At the external walls of the upper floor level, the ceiling is 6.5 metres above ground level at its highest point. This height is well within the building height controls of both the Seniors SEPP and SSLEP 2006. The high level roof element is set back substantially from the southern property boundary (i.e. in the order of 18-21 metres) and rises a little over 1 metre above the main roof line and will be difficult to view from neighbouring properties.

On this basis, it is concluded that the height of House 6 will be reasonably compatible with the 1-2 storey scale of adjacent housing to the south of the site and not result in any adverse visual bulk, overshadowing or overlooking impacts on this housing.

11.0 SECTION 94 CONTRIBUTIONS

Due to its nature, the proposed development will not require or increase the demand for local and district facilities within the area. Accordingly, it does not generate any Section 94 contributions.

12.0 DECLARATION OF AFFILIATION

There was a signed declaration on the development application form, but no mention of affiliation, gifts or political donations noted therein.

13.0 CONCLUSION

The proposed development is for the construction of the first stage of a seniors housing development, consisting of a 92 bed residential aged care facility at Nos. 86-110 Bellingara Road, Miranda.

The subject land is located within Zone 12 – Special Uses (Seniors Housing) pursuant to the provisions of Sutherland Shire Local Environmental Plan 2006, wherein the proposed development, being ‘seniors housing’ consisting of a residential care facility, is a permissible land use within the zone with development consent.

In response to public exhibition, six (6) submissions including a late submission were received. The matters raised in these submissions have been dealt with by design changes or conditions of development consent, where appropriate.

As the proposal exceeds eight (8) metres in height to the uppermost ceiling, the consent authority may refuse consent to the proposal on the grounds of building height. In this case however, the excessive height relates to a very minor portion of the built form, does not create any adverse impacts on the amenity of the neighbourhood and may be supported.

The issues raised as a result of the public exhibition and the Architectural Review Advisory Panel’s review of the proposal have been satisfactorily addressed by the applicant through either minor design changes, submission of additional information or adequate contrary arguments.

In conclusion, the application satisfies the underlying aims of the Seniors SEPP in that it increases the supply and diversity of residences that meet the needs of seniors or people with a disability, makes efficient use of existing infrastructure and services and is of good design.

The internal layout, siting, bulk and scale of the proposed building and configuration and treatment of the proposed open spaces are considered reasonable, subject to some minor design changes to reduce visual privacy impacts upon neighbours to the south and improve the proposal’s integration and visual connection with subsequent stages of the development. Overall, the proposal has adequately met the design principles of the Seniors SEPP.

The application has been assessed having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979, the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and all relevant Council DCPs, Codes and Policies. Following detailed assessment, it is considered that Development Application No. 10/0553 may be supported for the reasons outlined in this report.

14.0 RECOMMENDATION

That Development Application No. 10/0553 for Stage 1 of a Seniors Living Development – Construction of a 92 Bed Residential Aged Care Facility with Basement Car Park at Lot 1 DP1097917 (Nos. 86-110) Bellingara Road, Miranda be approved, subject to the following draft conditions of consent.

15.0 DRAFT CONDITIONS OF CONSENT

GENERAL CONDITIONS

These general conditions are imposed to ensure that the development is carried out in accordance with the development consent, having regard to the environmental circumstances of the site.

1. Approved Plans and Documents

The development shall be implemented substantially in accordance with the details and specifications set out on the architectural plans, Drawing Nos. DA 1001 Issue 05 dated 3 August 2010, DA 2100 Issue 06 dated 3 August 2010, DA 2101 Issue 09 dated 3 August 2010, DA 2101 Issue 03 dated 4 June 2010, DA 3101 Issue 03 dated 4 June 2010, DA3111 Issue 02 dated 4 June 2010, DA 3112 Issue 02 dated 4 June 2010 & DA 3201 Issue 04 dated 15 June 2010, prepared by Allen Jack & Cottier Architects and any details on the application form and on any supporting information received with the application, except as amended by the conditions specified and imposed hereunder.

Note 1:

Nothing in this development consent, whatsoever, approves or authorises the commencement, erection or construction of any building or construction works.

Note 2:

Prior to the commencement of any building or construction work being carried out, a 'construction certificate' shall be obtained from Council or an Accredited Certifier.

Note 3:

Prior to any work being carried out relating to the development the subject of the consent, the person implementing the consent shall provide Council with:

- a) Notification of the appointment of a Principal Certifying Authority (PCA) and a letter of acceptance from the PCA.

- b) Notification of the commencement of building works, with a minimum of 2 days notice of such commencement.

2. Prescribed Conditions

The following are prescribed conditions of development consent pursuant to s.80A(11) of the Environmental Planning and Assessment Act 1979 and cl.98 of the Environmental Planning and Assessment Regulation 2000.

A. Compliance with the Building Code of Australia

The development must be carried out in accordance with the provisions of the Building Code of Australia.

B. Residential building work

1. Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be carried out unless the **Principal Certifying Authority** (PCA) for the development to which the work relates:

- a) in the case of work to be done by a licensee under that Act:
 - i) has been informed in writing of the licensee's name and contractor license number, and
 - ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act, or
- b) in the case of work to be done by any other person:
 - i) has been informed in writing of the person's name and owner-builder permit number, or
 - ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of "owner-builder work" in section 29 of that Act,
 - iii) and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

2. A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

C. Details to be provided to Council with the Notice of Commencement

Builders and Insurance details required under part B above shall be provided to Council with the Notice of Commencement. In relation to non-residential building work, Builders details shall be provided to Council with the Notice of Commencement.

3. Public Authority Requirements

The development shall be carried out in accordance with the requirements of Energy Australia, as relevant to the electricity transmission easement and associated infrastructure that traverses the site.

4. Approvals Required under Roads Act or Local Government Act

The following works or activities shall not be carried out on public land (including a road) adjacent to the development site without approval under the Roads Act 1993 and/or the Local Government Act 1993:

- a) Placing or storing materials or equipment;
- b) Placing waste containers or skip bins;
- c) Pumping concrete from a public road;
- d) Standing a mobile crane;
- e) Pumping stormwater from the site into Council's stormwater drains;
- f) Erecting a hoarding;
- g) Establishing a construction zone;
- h) Opening the road reserve for the purpose of connections including telecommunications, water, sewer, gas, electricity and stormwater; or
- i) Constructing a vehicular crossing or footpath.

An application, together with the necessary fee, shall be submitted and approval granted by Council prior to any of the above works or activities commencing.

Note - Approval under the Roads Act or Local Government Act cannot be granted by a Principal Certifying Authority or by a Private Certifier. Failure to obtain approval may result in fines or prosecution.

5. General Condition 1 - Accessibility

- a) The development shall comply with the Commonwealth aged care accreditation standards.
- b) The development shall comply with AS1428.1 - 2009.
- c) The lift cars shall comply with AS1735.12 - 1999.
- d) The two (2) accessible car parking spaces shall comply with AS2890.6 - 2009.

6. General Condition 2 - Crime Prevention

- a) All pathway lighting is to provide at least 50 lux at ground level.
- b) All external doors at the basement floor level are to be fitted with access control devices.
- c) The car park driveway security door is to be designed and installed, so that it cannot be manually over-run by people attempting to gain unauthorised access.
- d) The walls and ceilings in the basement car park are to be painted white.
- e) The doors and windows at the ground floor level are to be fitted with security devices.

- f) The external walls of the building and all fences and retaining walls are to be treated with anti-graffiti coatings or textured surfaces or screened by vegetation, as far as practicable.
- g) Closed Circuit Television is to be provided, so as to monitor the common areas, lobbies, basement car park and basement driveway entry/exit.

7. Environmental, Damage & Performance Security Bond

Before the commencement of any works (including demolition) or the issue of a Construction Certificate, the applicant shall provide security to Council against damage caused to any Council property and/or the environment as a consequence of the implementation of this consent. The security may be provided by way of a deposit with the Council or a satisfactory guarantee. A non refundable inspection/administration fee is included in the bond value.

It is the applicant's responsibility to notify Council of any existing damage to public areas in the vicinity of the development site through the submission of a current dilapidation report supported by photographs. This information shall be submitted to Council at least 2 days prior to the commencement of works.

Should any public property and/or the environment sustain damage during the course of and as a result of construction, or if the construction works put Council's assets or the environment at risk, Council may carry out any works necessary to repair the damage and/or remove the risk. The costs incurred shall be deducted from the security.

A request for release of the security deposit may be made to Council after all works relating to this consent have been completed. Such a request shall be submitted to Council on the 'Bond Release Request Form' signed by the owner or any person entitled to use of the consent.

The value of the bond shall be determined as follows:

Development Value	Refundable Deposit <input type="checkbox"/>
Less than \$50,000 <input type="checkbox"/> <input type="checkbox"/>	\$2,110.00
\$50,000 - \$150,000	\$2,110.00
\$150,000 - \$300,000	\$3,110.00
Greater than \$300,000	\$5,110.00
Swimming Pools	\$2,110.00
Demolition / Earthworks	\$3,110.00

- ☐ Bond amount includes a non refundable administration fee of \$110. Where the bond takes the form of a Bank Guarantee, the \$110 administration fee must be paid separately.
- ☐☐ Development valued at less than \$50,000 only where:
 - ☐ deliveries or removal of materials occur in vehicles of Small Rigid Vehicle (4.0 tonnes) size or larger and/or
 - ☐ there is delivery or removal of construction machinery, and

- a constructed footpath or a stormwater pit exists along the frontage of the property or within 10 metres on either side of the property.

Note: All enquiries in relation to bonds should be directed to Council's Civil Assets Manager on 97100134.

8. Public Liability Insurance

Prior to the commencement of work or the issue of a Construction Certificate, the owner or contractor shall take out a Public Liability Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works. Evidence of this policy shall be submitted to Council prior to commencement of work or the issue of a Construction Certificate.

MATTERS RELATING TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions involve either modification to the development proposal or further investigation prior to the issue of a Construction Certificate, so as to ensure that there will be no adverse impact on the environment or adjoining development. This information shall be submitted with the Construction Certificate.

9. Design Changes Required

To reduce the environmental impact of the development proposal, the following design changes shall be implemented:

- a) The proposed fence located on the outer southern edge of the elevated pedestrian path on the southern side of Houses 5 and 6 (as indicated on the approved plans and detailed in the section drawing No. LA07 Revision A dated 20 August 2010) shall be a minimum height of 1.6 metres above the finished level of the path and designed to prevent a downward view into the adjoining properties to the south.
- b) The proposed fences located on the outer sides of the covered services corridors on the eastern and western perimeters of the building (as indicated on the approved plans and detailed in the elevation drawing entitled 'Fencing to Western Boundary of Miranda RACF' reference No. SK6118) shall comprise of a solid wall no higher than 1 metre above the finished level of the covered services corridor path and a timber screen no higher than 800 mm above this wall and of a transparency of at least 50%.

Details of these design changes shall accompany the Construction Certificate.

10. Detailed Landscape Plan

A Detailed Landscape Plan shall be prepared by an experienced Landscape Designer (a person eligible for membership of the Australian Institute of Landscape Designers and Managers) or Landscape Architect (a person eligible for membership of the Australian Institute of Landscape Architects as a Registered Landscape Architect).

The Detailed Landscape Plan shall be based on the plans, Drawing Nos. LA01, LA02, LA03, LA04, LA05, LA06, LA07 & LA08, all Revision A and dated 1 June 2010, prepared by Taylor Brammer Landscape Architects Pty Ltd, submitted with the development application and shall include the following modifications:

- a) The pathway on the elevated deck on the southern side of House 6, between the main entry to House 6 and Kiama Street, shall be deleted and replaced with shrub and groundcover planting.
- b) The three (3) proposed trees in the south eastern corner of the site, adjoining property No. 3 Queanbeyan Avenue, shall be of species that grow to a mature height of no more than 5 metres.
- c) Groundcover planting shall be provided for the full extent and adjacent to both sides of the internal pathway that connects the ground floor level entry of the building with Bellingara Road.

The Landscape Designer or Landscape Architect shall provide written certification to the Accredited Certifier that the Detailed Landscape Plan has been prepared having regard to the requirements of this development consent. This certification and the Detailed Landscape Plan shall accompany the Construction Certificate.

11. Design and Construction of Works in Public Areas

Council has determined that the proposed development generates a need for the following works to be undertaken by the Applicant in the Road Reserve:

- a) Road pavement reconstruction.
- b) Stormwater drainage work.
- c) Demolition of existing kerb and gutter at the proposed points of access and replacement with concrete layback crossings.
- d) Construction of footpath crossings to the levels issued by the Council.
- e) Removal of all redundant layback crossings in Kiama Street and reconstruction with integral concrete kerb and gutter.
- f) Removal of all redundant footpath crossings in Kiama Street and reinstatement in accordance with Council's requirements.
- g) Construction of a footpath on the western side of Kiama Street, across the frontage of the development.
- h) Construction of a footpath on the eastern side of Bellingara Road, from the internal pathway (where it meets the street frontage) southwards to the existing bus stop adjacent to the site.
- i) Regrading and reconstruction of the existing footpath on the western side of Bellingara Road, from the location of the proposed pedestrian crossing southwards to the existing bus stop opposite and adjacent to the site.
- j) Construction of a raised pedestrian crossing (magpie crossing) and installation of associated street lighting, at the location as indicated on the site plan, Drawing No. DA 1001 Issue 04 dated 16 June 2010 prepared by Allen Jack & Cottier Architects, submitted with the development application. The pedestrian crossing shall be designed so as to ensure safe and convenient vehicular access to and from the footpath crossings on either side of the proposed crossing.

- k) Construction of a concrete pad and seat (and if deemed necessary by Council's Engineering Division, a bus shelter) at the bus stops referred to in items (h) and (i) above.
- l) Regrading, topsoiling and turfing of the footpath areas to final design levels, as deemed necessary by Council's Engineering Division.
- m) Adjustment to public services infrastructure where appropriate.

An application under the Roads Act, together with the necessary fee, shall be submitted and approval granted by Council prior to any of the above works or activities commencing. Approval under the Roads Act cannot be granted by a Principal Certifying Authority or by a Private Certifier. Failure to obtain approval may result in fines or prosecution.

Survey and design plans for the above works shall be prepared by Council's Engineering Division and issued by Council's Civil Assets Manager prior to the issue of a Construction Certificate. A fee quotation may be obtained by submitting a "Detailed Frontage Design" application to Council. The application form can be obtained from Council's web site.

12. General Construction Certificate Condition 1 - Roof Levels

The reduced levels of the rooflines of the building shall be in accordance with the plans, Drawing Nos. DA3101 Issue 04 dated 20 July 2010 and DA3201 Issue 05 dated 16 July 2010, prepared by Allen Jack & Cottier Architects, submitted to Council on 21 July 2010.

The plans accompanying the construction certificate shall include these details.

13. General Construction Certificate Condition 2 - Pathway to Bellingara Road

The internal pathway providing pedestrian access between the ground floor level entry of the building and Bellingara Road is to be wheelchair accessible and include bollard style lighting at regular intervals, so as to ensure that it is safe and convenient for use by staff, visitors and residents.

The plans accompanying the construction certificate shall include these details.

14. Access Application

An access application shall be made to Council to obtain footpath crossing and boundary alignment levels before commencing the final design of internal driveways. The proposal shall comply with the levels issued by Council and a copy of the issued levels shall accompany the Construction Certificate.

15. Nomination of Engineering Works Supervisor

Prior to the issue of a Construction Certificate, the applicant shall nominate an appropriately accredited certifier to supervise all public area civil and drainage works to ensure that they are constructed in compliance with Council's current "Specification for Civil Works Associated with Subdivisions and Developments".

The engineer shall:

- a) provide an acceptance in writing to supervise sufficient of the works to ensure compliance with:
 - i) all relevant statutory requirements;
 - ii) all relevant conditions of development consent;
 - iii) construction requirements detailed in the above Specification; and
 - iv) the requirements of all legislation relating to environmental protection;
- b) on completion of the works certify that the works have been constructed in compliance with the approved plans, specifications and conditions of approval; and
- c) certify that the Works As Executed plans are a true and correct record of what has been built.

16. Sydney Water - Referral Requirements

The plans approved as part of the Construction Certificate shall be submitted to a Sydney Water Quick Check agent or Customer Centre to determine as to whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements and if further requirements need to be met. Plans will be stamped appropriately.

Please refer to the web site www.sydneywater.com.au for:

- ☐ Quick Check agents details – see Building Development and Plumbing then Quick Check; and
- ☐ Guidelines for Building Over/Adjacent to Sydney Water Assets – see Building Development and Plumbing then Building and Renovation.

17. Public Utility Authorities

Arrangements shall be made to the satisfaction of all Utility Authorities, including cable television network providers, in respect to the services supplied to the development by those authorities. The necessity to provide or adjust conduits/ services within the road and footway areas shall be at full cost to the applicant.

18. General Health Condition 1 - Acoustic Attenuation

To minimise the impact of noise from the surrounding environment on the occupants of the Residential Aged Care Facility, Houses 1-6 of the development shall be designed and constructed so that the internal noise levels within the resident living and sleeping areas do not exceed a recommended maximum L_{Aeq} sound pressure level of 40dB(A) during the noisiest 1 hour period of the day. This is in accordance with the Environment Protection Authority's New South Wales Industrial Noise Policy and Australian Standard 2107:2000 'Acoustics- Recommended design sound levels and reverberation times for building interiors.'

19. Parking Areas and Vehicular Access

The on-site vehicular access, manoeuvring and parking facilities shall comply with AS2890.1 (2004), AS2890.2 (2002) and AS2890.6 (2009). A Compliance Certificate issued by an appropriately accredited person, to the effect that these design requirements have been met, shall accompany the Construction Certificate.

The following specific requirements shall be incorporated into the constructed works:

- a) A sign shall be provided adjacent to the entrance to the northern driveway, directing visitors to the basement car park and indicating its availability for their use.
- b) The loading/unloading area, ambulance bay and accessible parking spaces shall be clearly defined with suitable signposting and pavement markings.
- c) The car park shall be line marked sufficient to accommodate 66 vehicles (including the ambulance bay).
- d) The internal driveways outside of the basement car park shall be paved using materials other than plain or exposed aggregate concrete.

20. General Engineering Condition 1 - Stormwater Management

A Detailed Stormwater Drainage Plan shall be prepared, generally in accordance with the civil engineering drawings numbered LH9215 DA-C1, LH9215 DA-C2, LH9215 DA-C3, LH9215 DA-C4, LH9215 DA-C5, LH9215 DA-C6 & LH9215 DA-C7, all Revision 2 and dated 4 June 2010, prepared by Cardno.

Certification from a suitably qualified engineer is to be submitted to the Principle Certifying Authority to the effect that the Detailed Stormwater Drainage Plan complies with Sutherland Shire Development Control Plan 2006 (Chapter 8 - 'Ecologically Sustainable Development'; Section 6 - 'Stormwater Management'), Sutherland Shire Environmental Specification – Stormwater Management and AS-3500.3 (2003). The Detailed Stormwater Drainage Plan and associated certification shall accompany the Construction Certificate.

The certification shall specifically address the depth velocity product within the overland flowpath (in areas where pedestrian or vehicular traffic is expected) and demonstrate that a depth velocity product below 0.4 is achieved.

21. General Engineering Condition 2 - Traffic Management

A Detailed Traffic Management Plan shall be prepared by a suitably qualified person, in consultation with Council's Engineering Division. This plan is to detail construction vehicle routes, numbers of trucks, hours of operation, access arrangements and other measures to reduce traffic impacts on both pedestrian and vehicular traffic on the surrounding streets.

Certification from a suitably qualified person is to be submitted to the Principle Certifying Authority to the effect that compliance with AS-1742.3 2002 is achieved. The Detailed Traffic Management Plan and associated certification shall accompany the construction certificate.

22. General Engineering Condition 3 - Pre-Development Dilapidation Report

A Dilapidation Report is to be prepared by a suitably qualified engineer, prior to the commencement of any demolition, excavation or construction works. The dilapidation survey is to address all Council infrastructure within the road reserve of Kiama Street and any structures that have the potential to be affected by any excavation works, including dewatering and/or construction works, including vibration. The Dilapidation Report shall accompany the Construction Certificate.

23. General Engineering Condition 4 - Construction Methodology Report

Where structures on adjoining properties or Council's road reserve have the potential to be affected by any excavation works, including dewatering and/or construction works, including vibration, a suitably qualified engineer is to prepare a Construction Methodology Report:

- a) demonstrating that the excavation works, including dewatering and/or construction works, including vibration, will have no adverse impact on any surrounding property and infrastructure; and
- b) providing recommendations on appropriate construction techniques to ameliorate any potential adverse impacts.

The Construction Methodology Report shall accompany the Construction Certificate. All works are to be undertaken in accordance with the recommendations of the Construction Methodology Report.

24. General Engineering Condition 5 - Site Management Plan

A Detailed Site Management Plan is to be prepared by a suitably qualified person and shall accompany the construction certificate. This plan shall be prepared in accordance with the guidelines set out in Part 3 of Chapter 8 of Sutherland Shire Development Control Plan 2006; Sutherland Shire Environmental Specification 2007 - Environmental Site Management and the manual "Managing Urban Stormwater, Soils and Construction Fourth Edition 2004 Volume 1" prepared by LANDCOM.

The Detailed Site Management Plan must detail:

- a) The actions and works that are to be employed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment and plant and deliveries.
- b) The proposed method of loading and unloading excavation machines and building materials.
- c) Areas within the site to be used for the storage of excavated material, construction materials and waste containers during demolition/construction.
- d) How it is proposed to ensure that material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways.

- e) The provision of temporary fencing to secure the work site (Note: fencing, hoarding or awnings over public land require Council approval under the Roads Act).

Note: The footpath and road reserve shall not be used for construction purposes (including storage of skips or building materials, standing cranes or concrete pumps, erecting hoardings, or as a construction zone) unless prior approval has been granted by Council under the Roads Act 1993.

25. External Lighting

- (a) All external lighting on the site shall be designed and constructed in accordance with the requirements of Australian Standard AS4282 (1997) – Control of the Obtrusive Effects of Outdoor Lighting, specifically, the ‘Recommended Maximum Values’ of ‘Light Technical Parameters’ as set out in Table 2.1 of that standard, so as not to cause a nuisance or adverse impact on the residents of the surrounding area nor to motorists on nearby roads. For the purposes of assessment and compliance, the ‘Recommended Maximum Values’ for ‘Residential Areas’ shall be applied.
- (b) Any baffles, shields and/or louvres that are required for the purposes of satisfying item (a) above shall be treated so as to avoid a glare nuisance.

26. Building Ventilation

To ensure that adequate provision is made for ventilation of the building, mechanical and/or natural ventilation systems shall be provided. These shall be designed in accordance with the provisions of:

- a) The Building Code of Australia.
- b) AS 1668 Part 1 - 1998.
- c) AS 1668 Part 2 - 1991.

Details of all mechanical and/or natural ventilation systems, along with specific certification provided by an appropriately qualified person verifying compliance with the abovementioned requirements, shall accompany the Construction Certificate.

27. Noise Control - Design of Plant and Equipment

To minimise the impact of noise from the development, all sound producing plant, equipment, machinery and mechanical ventilation systems shall be designed and/or located so that the noise emitted does not exceed an LAeq sound pressure level of 5dB above the ambient background level when measured at the most affected point on or within any residential property boundary.

Note: The method of measurement of sound shall be carried out in accordance with Australian Standard 1055.1.

28. Carpark Ventilation

The carpark shall be mechanically ventilated by a mechanical ventilation system complying with AS1668.2 -1991. Details of the method of ventilation and relevant certification shall accompany the Construction Certificate.

29. Energy Efficiency - Sustainable Building Materials

Details demonstrating how it is intended to comply with the Sutherland Shire Environmental Specification 2007 - Sustainable Building Materials shall accompany the Construction Certificate.

30. Submission of Fire Safety Schedule

A Fire Safety Schedule shall be issued by an appropriately qualified person and provided to Council as part of the Construction Certificate in accordance with the Environmental Planning and Assessment Regulation 2000. This schedule shall include all proposed and required fire safety measures, with the minimum standard of performance being indicated for each fire safety measure. The Fire Safety Schedule shall identify each fire safety measure that is a Critical Fire Safety Measures and the intervals at which supplementary fire safety statements shall be given to the Council in respect of each such measure.

PRE-COMMENCEMENT CONDITIONS

The following conditions are imposed to ensure that all pre-commencement matters are attended to before work is commenced.

31. Pre-Commencement - Notification Requirements

No works in connection with this development consent shall be commenced until:

- a) A Construction Certificate has been issued and detailed plans and specifications have been endorsed and lodged with Council;
- b) A Principal Certifying Authority has been appointed. Council shall be notified of this appointment, along with details of the Principal Certifying Authority and their written acceptance of the appointment; and
- c) Notice of commencement has been provided to Council 48 hours prior to commencement of construction work on the approved development.

32. Signs to be Erected on Building and Demolition Sites

Where proposed works affect the external walls of a building, a rigid and durable sign shall be erected prior to the commencement of work and maintained in a prominent position on any work site on which building work, subdivision work or demolition work is being carried out. The responsibility for this to occur is that of the principal certifying authority or the principal contractor.

The signage, which must be able to be easily read by anyone in any public road or other public place adjacent to the site, must:

- a) show the name, address and telephone number of the principal certifying authority for the work, and

- b) show the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c) state that unauthorised entry to the work site is prohibited.

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

CONSTRUCTION CONDITIONS

These conditions are imposed to ensure the development does not unreasonably impact on the amenity of the locality during the construction or demolition phase.

33. Permitted Hours for Building and Demolition Work

To minimise the noise impact on the surrounding environment, all building and demolition work shall be carried out only between the hours of 7.00am and 6.00pm on Mondays to Fridays inclusive and 8.00am and 1.00pm on Saturdays. No work shall be carried out on Sundays and Public Holidays.

34. Toilet Facilities

Toilet facilities shall to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- a) shall be a standard flushing toilet, and
- b) shall be connected:
 - i) to a public sewer, or
 - ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
 - iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this clause shall be completed before any other work is commenced.

35. Noise Control during Construction and Demolition

To minimise the impact on the surrounding environment:

- a) For construction and demolition periods of four (4) weeks or less, the LAeq sound pressure level measured over a period of 15 minutes, when the construction or demolition site is in operation, shall not exceed the ambient background level (LA90 15min) by more than 20dB(A) when measured at the nearest affected premises.

- b) For construction and demolition periods greater than four (4) weeks, the LAeq sound pressure level measured over a period of 15 minutes, when the construction or demolition site is in operation, shall not exceed the ambient background level (LA90 15min) by more than 10dB(A) when measured at the nearest affected premises.
36. Environment Protection and Management
- The environment protection and management measures described in the required Site Management Plan (including sediment controls and tree protection) shall be installed or implemented prior to commencement of any site works and continuously maintained during the period of construction or demolition.
37. Vibration Control
- The proposed security door fitted to the car parking area entrance shall be independently mounted on rubber pads to prevent vibration noise transmission through the concrete walls and/or columns.
38. Certification Requirement - Prior to pouring of concrete
- Certification shall be provided from a registered surveyor at the following stages of construction to ensure that, when completed, the structure will comply with the design details endorsed and accompanying the Construction Certificate:
- a) Prior to the pouring of the lowest floor slab, verifying the location and level of the steel/formwork is such to ensure that the concrete, when poured, will comply with the approved floor level.
 - b) Prior to the pouring of each floor slab, verifying the location and level of the steel/formwork is such to ensure that, when completed, the building will comply with the approved roof heights.
39. Disposal of Site Soils
- a) All soils excavated from the site are to be classified under the NSW Department of Environment & Climate Change (DECC) Waste Classification Guidelines (2009). Testing is required prior to off-site disposal.
 - b) All waste materials must be removed to appropriately licensed waste facilities by a suitably qualified contractor in accordance with NSW DECC Waste Classification Guidelines (2009).
40. Dewatering of Excavation
- Any water from excavations to be discharged to Council's stormwater system must meet the following criteria:
- must not contain a concentration of suspended sediment exceeding 50 mg/L;
 - must have a pH of between 6.5-8
 - must comply with the ANZECC Guidelines for Marine and Freshwater Quality, for Protection of Aquatic Ecosystems (95% protection level)

Water testing shall be carried out to ensure compliance with the above by a suitably qualified environmental scientist, and results provided to Council upon request. A permit may be required to discharge water to Council's stormwater system. Consultation with Council shall be undertaken prior to discharge of any water to stormwater.

41. Soils to be used on Site

Soils imported onto the site for the purpose of backfilling excavations or any other use shall comprise either Virgin Excavated Natural Material or Excavated Natural Material (as defined in the excavated natural material exemption under the Protection of the Environment Operations (Waste) Regulation 2005). All imported soils utilised on site shall also comply with the relevant Health Investigation Levels set out in the Department of Environment and Climate Change Guidelines for the NSW Site Auditor Scheme (2nd edition). Documentation indicating the suitability of these soils shall be made available to Council officers upon request.

42. Reuse of Asphalt and Base Gravels

Any asphalt or base gravels to be reused on site shall comply with the definition in The Recovered Aggregate Exemption 2008 under Clause 51 and 51A of the Protection of the Environment Operations (Waste) Regulation 2005. The material shall be tested in accordance with the Exemption and shall comply with the Chemical and Other Property Requirements within the Exemption, as well as comply with the relevant Health Investigation Levels set out in the Department of Environment and Climate Change (2008) Guidelines for the NSW Site Auditor Scheme (2nd Edition). Where these materials are to be used as fill (as permitted by the Exemption), a 600mm cap of Virgin Excavated Natural Material or Excavated Natural Material shall be placed over the material where used in garden beds or landscaped areas. If placed under buildings or concrete slabs, no Virgin Excavated Natural Material or Excavated Natural Material cap is required.

43. Street Planting

Street tree planting shall be provided within the Kiama Street road reserve, fronting the development, utilising seven (7) trees of any of the species, *Angophora costata* (Sydney Red Gum), *Angophora floribunda* (Rough Bark Apple), *Cupaniopsis anacardioides* (Tuckeroo) or *Eucalyptus haemastoma* (Scribbly Gum). These trees shall be of a minimum pot size of 75 litres and planted, staked and tied in a mulched and edged area, in accordance with Council's specifications, within three (3) months of completion of work on the site.

44. Removal of Trees

The issue of the Construction Certificate gives approval for the removal of the following trees:

- a) Any trees specifically identified for removal on the plans, Drawing Nos. LA01, LA02, LA03, LA04, LA05, LA06, LA07 & LA08, all Revision A and dated 1 June 2010, prepared by Taylor Brammer Landscape Architects Pty Ltd.
- b) Any trees growing within the building footprint of the approved structures.
- c) Any declared noxious plant (Note: the applicant is to ensure that all noxious plants are properly identified and controlled/removed).
- d) Any tree species listed in Clause 57 of Sutherland Shire Local Environmental Plan 2006.

All other vegetation not specifically identified above and protected by Council's Controls for Preservation of Trees and Bushland Vegetation shall be retained and protected from construction damage.

45. Tree Retention and Protection

The existing trees adjacent to the southern boundary of the site and identified for retention on the plans, Drawing Nos. LA01, LA02, LA03, LA04, LA05, LA06, LA07 & LA08, all Revision A and dated 1 June 2010, prepared by Taylor Brammer Landscape Architects Pty Ltd, shall be retained and protected.

These trees shall be protected by the following measures:

- a) Protective fencing constructed of 1.8 metre high chain wire mesh, supported by robust posts, shall be installed at a minimum radius of 5 metres from the trunk of the tree. This fencing shall be installed prior to the commencement of any works subject to this consent and remain in place until all works are completed. Signage shall be erected on the fence, with the words "TREE PROTECTION ZONE, DO NOT ENTER" clearly displayed.
- b) The tree protection zone, within the protective fencing, shall be mulched with a maximum depth of 75mm of suitable organic mulch (woodchips or composted leaf chip mulch) and kept regularly watered for the duration of the works subject to this consent.
- c) No development or associated activity is permitted within the fenced tree protection zone for the duration of works subject to this consent. This includes vehicular or pedestrian access, sheds, washout areas, excavations, backfilling, installation of services (including stormwater), removal of top soil and stockpiling of soil or building materials.
- d) Any approved works within the tree protection zone shall be under the direction and to the satisfaction of a suitably qualified and experienced Arborist.

POST CONSTRUCTION CONDITIONS

These conditions are imposed to ensure all works are completed in accordance with the Development Consent prior to either the issue of an Occupation Certificate, a Subdivision Certificate or habitation / occupation of the development.

46. Section 73 Compliance Certificate

A Compliance Certificate under s73 of the Sydney Water Act, 1994, shall be submitted to Council by the Principal Certifying Authority prior to the issue of an Occupation Certificate. Sydney Water may require the construction of works and/or the payment of developer charges.

Advice from Sydney Water:

An application must be made through an authorised Water Servicing Coordinator. For details see the Sydney Water web site at www.sydneywater.com.au/customer/urban/index or by 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 as well as building, driveway or landscaping design.

47. Works As Executed Information

Certification shall be provided from a registered surveyor to the effect that:

- a) All civil engineering works required by this development consent have been carried out in accordance with the terms of the development consent and the approved engineering drawings with regard to location and level.
- b) All pipes, pits and detention facilities lay within their relevant existing or proposed easements.
- c) All rights-of-way or positive covenants required by conditions of this development consent have been provided.

48. Works As Executed Drawings

Certification shall be provided from the supervising engineer acting as an Accredited Certifier, to the effect that:

- a) All civil engineering and stormwater works associated with development have been carried out in accordance with the terms of the development consent, the approved engineering drawings and, in the case of public works, Council's "Specifications for Civil Works associated with Subdivisions and Developments".
- b) The construction of the drainage system for the proposed development has been carried out generally in accordance with the requirements of the Detailed Stormwater Drainage Plan accompanying the construction certificate, Council's stormwater management policy and guidelines and Council's On-site Detention Policy and has been carried out in order that stormwater runoff downstream is not increased as a result of the development and that all assumptions made during the design remain valid. Works-as-Executed drawings certified in the above manner and containing all relevant information as required by Council's "Specification for Civil Works Associated with Subdivisions and Developments" shall accompany the Occupation Certificate.

49. Completion of Work on Public Land

All work on public land required or proposed as part of this consent shall be completed in accordance with the requirements and time frames specified in the approvals granted by Council for the work under the Local Government Act 1993 or the Roads Act 1993.

No work shall be undertaken within the road reserve or on public land without approval from Council.

50. General Post Construction Condition 1 - Restrictions on Occupation

Prior to issue of any occupation certificate, a restriction as to user shall be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, limiting the use of the housing accommodation to the following kinds of people 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; and
- (c) staff employed to assist in the administration of and provision of services to the development.

For the purposes of this condition, "seniors" are people aged 55 or more years, people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 of the Commonwealth) is provided and people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

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

Need for Certification

To ensure that all works are completed in accordance with the Development Consent, certification from an Accredited Certifier shall accompany the Occupation Certificate, to the effect that the following works have been completed.

51. Set out of Building

Certification from a Registered Surveyor that the building has been set-out in relation to location and levels, in accordance with the requirements of this development consent.

52. Acoustic Treatment

Certification from a suitably qualified acoustic engineer that the acoustic treatment of the building complies with the requirements of this development consent.

53. Noise Emission - Equipment

Certification from a suitably qualified Acoustic Engineer that the noise from all sound producing plant, equipment, machinery and mechanical ventilation systems complies with the terms of this development consent.

54. Mechanical or Natural Ventilation

Certification from a suitably qualified Mechanical Engineer that all work associated with the installation of the mechanical or natural ventilation systems has been carried out in accordance with the conditions of this development consent.

55. Completion of Landscaping

Certification from a suitably qualified and experienced Landscape Designer or Landscape Architect that the landscape works have been completed in accordance with the Detailed Landscape Plan and relevant conditions of this development consent.

Note: A Landscape Designer is a person eligible for membership of the Australian Institute of Landscape Designers and Managers and a Landscape Architect is a person eligible for membership of the Australian Institute of Landscape Architects as a Registered Landscape Architect.

56. General Certification Condition 1 - Sustainable Building Materials

Certification that the building has been constructed in compliance with Sutherland Shire Environmental Specification 2007 - Sustainable Building Materials.

57. Prior to Occupation or Use of the Development

The Development shall not be occupied or used until:

- a) A Final Occupation Certificate is issued and provided to Council for the development; or
- b) An Interim Occupation Certificate is issued and provided to Council for the development. This shall clearly identify the part of the development to which the Interim Occupation Certificate relates.

OPERATIONAL CONDITIONS

These conditions are imposed to ensure that the use or operation of the development does not adversely impact on the amenity of the neighbourhood and the environment.

58. Carparking Areas

To ensure that the carparking area satisfies the demands of the development, it shall be made available on an unrestricted basis, at all times, for employees', residents' and visitors' vehicles. Suitable measures (such as intercom/remote control access systems, key/card access systems and restrictions on the periods of closure of the carpark driveway security door) are to be implemented, so as to ensure that the security door does not restrict access to any residents, employees or visitors.

59. Loading and Unloading

In the interests of public safety and amenity, all delivery and collection vehicles servicing the development shall stand within the basement car park whilst being unloaded and loaded and shall be able to be driven in a forward direction when entering and leaving the site.

60. External Lighting

- a) All external lighting on the site shall be operated in accordance with the requirements of Australian Standard AS4282 (1997) – Control of the Obtrusive Effects of Outdoor Lighting, specifically, the ‘Recommended Maximum Values’ of ‘Light Technical Parameters’ as set out in Table 2.1 of that standard, so as not to cause a nuisance or adverse impact on the residents of the surrounding area nor to motorists on nearby roads. For the purposes of assessment and compliance, the ‘Recommended Maximum Values’ for ‘Residential Areas’ shall be applied.
- b) Any baffles, shields and/or louvres that are required for the purposes of satisfying item (a) above shall be treated so as to avoid a glare nuisance.

61. Noise Control - Plant & Equipment

To minimise the impact of noise from the development, all sound producing plant, equipment, machinery and mechanical ventilation systems shall be operated and maintained in such a manner so that the noise emitted does not exceed a LAeq sound pressure level of 5 dB above the ambient background level when measured at the most affected point on or within any residential property boundary.

Note: The method of measurement of sound shall be carried out in accordance with Australian Standard 1055.1.

62. Ventilation

To ensure adequate ventilation within the building, all mechanical and/or natural ventilation systems shall be operated and maintained in accordance with the provisions of:

- a) The Building Code of Australia.
- b) AS 1668 Part 1 - 1998.
- c) AS 1668 Part 2 - 1991.

63. Medical Waste

Disposable sharps shall be discarded in a clearly labelled puncture-resistant container, which shall conform to Australian Standard AS 4031. A licensed waste contractor shall be engaged to dispose of the waste.

Contaminated waste shall be segregated and placed in a suitable leak proof bag ready for appropriate disposal. Contaminated waste includes microbiological waste or pathological waste, or any other material or item that is soiled or contaminated with blood or other body substances and that is likely to cause infection or injury to any other person.

64. General Operation/Amenity Condition 1 - Bus Provision

A bus or mini-bus shall be provided on-site, specifically for the purposes of transporting residents to and from off-site services and facilities that they may reasonably require, as part of the operations and on a permanent basis.

65. General Operation/Amenity Condition 2 - Restrictions on Occupation

Only the following kinds of people may occupy the housing accommodation within the development:

- (a) seniors or people who have a disability;
- (b) people who live within the same household with seniors or people who have a disability; and
- (c) staff employed to assist in the administration of and provision of services to the development.

For the purposes of this condition, "seniors" are people aged 55 or more years, people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 of the Commonwealth) is provided and people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

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

66. General Operation/Amenity Condition 3 - Notice to Staff and Visitors

To protect the amenity of the surrounding residents, clearly visible signs shall be permanently fixed within the reception area of the administration building and within the lift lobby of the car park indicating that staff and visitors are to leave in a manner that does not disturb the quiet and good order of the neighbourhood.

67. General Operation/Amenity Condition 4 - Complaint Response

In the event of a legitimate complaint being received by the management of the facility, from a neighbouring resident, with respect to a disturbance to the quiet and good order of the neighbourhood, the management or their employees shall respond to such a complaint in a sympathetic and effective manner.

68. General Operation/Amenity Condition 5 - Collection/Delivery Services
To minimise the noise impact of the development on the surrounding environment, all collection and delivery of goods and materials (including garbage and recycling waste) from/to the premises shall be restricted to the hours between 8.00am and 6.00pm on any day.
69. General Operation/Amenity Condition 6 - Pedestrian Access
To ensure that the pedestrian entry/exit at Bellingara Road satisfies the demands of the development, it shall be accessible on an unrestricted basis, at all times, for employees, residents and visitors of the facility. Suitable measures (such as intercom/remote control access systems, key/card access systems and restrictions on the periods of closure of the pedestrian entry/exit) are to be implemented, so as to ensure that the pedestrian entry/exit does not restrict access to any residents, employees or visitors.
70. General Operation/Amenity Condition 7 - Resident Population
The permanent resident population of the building shall not exceed 92 persons, at any time.