

JRPP NO:	2010SYW052
DA NO:	220/2011/JP
PROPOSED DEVELOPMENT:	CONSTRUCTION OF A 144 BED RESIDENTIAL AGED CARE FACILITY, PARKING FOR 37 VEHICLES, DRAINAGE WORKS AND ASSOCIATED LANDSCAPING. THE PROPOSED DEVELOPMENT IS PURSUANT TO THE STATE ENVIRONMENTAL PLANNING POLICY (SEPP) – HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY 2004.
SUBJECT SITE:	LOT 2 DP 136093 - 442 WINDSOR ROAD, BAULKHAM HILLS
APPLICANT:	BUPA CARE SERVICES PTY LTD
LODGEMENT DATE:	13 AUGUST 2010
REPORT BY:	SENIOR TOWN PLANNER SANDA SVEDAS
RECOMMENDATION:	APPROVAL

Assessment Report and Recommendation

EXECUTIVE SUMMARY

The proposed development is for the construction of a 144 bed residential aged care facility, extension of The Cottell Way, on grade car parking for 37 vehicles and associated works.

A SEPP No. 1 Objection has been submitted with the application with respect to building height. The proposal does not comply with the building height standards of State Environmental Planning Policy (SEPP) Housing for Seniors or People with a Disability 2004. The non-compliances are minor and do not result in any adverse impacts to neighbouring properties such as overshadowing or privacy, nor does it result in any unreasonable visual impact from the street.

The application attracted sixteen (16) submissions and a petition containing twenty-four (24) signatures during the first notification period. The amended application, which provided a greater setback from The Cottell Way and amended side and rear setbacks, attracted four (4) submissions and a petition containing twelve (12) signatures. The issues raised in the submissions mainly relate to traffic, parking, noise and general operational concerns.

The proposed development is considered satisfactory subject to conditions.

BACKGROUND**MANDATORY REQUIREMENTS**

Owner:	Bupa Agedcare Funds Management Limited	1.	<u>Section 79C (EP&A Act)</u> - Satisfactory
Zoning:	Residential 2(a2) Special Uses 5(b) (Existing & Proposed Roads)	2.	<u>SEPP Housing for Seniors or People with a Disability 2004</u> - Under Assessment.
Area:	12,180m ²	3.	<u>SEPP Major Development 2005</u> - Satisfactory
Existing Development:	Vacant land	4.	<u>LEP 2005</u> - Satisfactory
Capital Investment Value	\$28,274,181.00	5.	<u>BHDCP</u> - Variation, see report.
		6.	<u>Section 94 Contribution</u> - Yes - \$5,774.40

SUBMISSIONS**REASONS FOR REFERRAL TO JRPP**

1. Exhibition:	Yes, fourteen (14) days.	1.	Capital Investment Value in excess of \$10 million pursuant to SEPP (Major Development) 2005
2. Notice Adj Owners:	Yes, fourteen (14) days		
3. Number Advised:	1 st Notification ninety-one (91), 2 nd Notification ninety-five (95)		
4. Submissions Received:	1 st Notification - Sixteen (16) and a petition containing 24 signatures 2 nd Notification- Four (4) submissions and a petition containing 12 signatures.		

HISTORY

21/05/2010	Prelodgement meeting held at Council with the applicant.
13/08/2010	Subject Development Application lodged with Council.
18/08/2010	Letter sent to the applicant requesting additional information in relation to subdivision, flooding, site drainage, vehicular access and parking, services and survey details.
23/08/2010	Civil report, and civil plans and survey plan received.
03/09/2010	Subject Development Application notified and advertised for fourteen (14) days.

03/09/2010	Letter sent to the applicant requesting additional information including, updated landscape plan, flora and fauna report in relation to the endangered ecological community Blue Gum High Forest identified on site, site contamination assessment, noise impact assessment, and greater details regarding the proposed kitchen, coffee shop and hair salon proposed as part of the application.
06/09/2010	Preliminary Environmental Assessment Report received from the applicant.
08/09/2010	Kitchen fitout details received from the applicant.
10/09/2010	Updated landscape plan and landscape report received from the applicant.
24/09/2010	Letter sent to the applicant requesting an additional site contamination report, additional flooding and site drainage information and the submission of a detailed car park layout.
29/09/2010	Correspondence received from the Office of Water stating that the proposed development is not considered integrated development pursuant to the Water Management Act (2000).
07/10/2010	Flora and Fauna Report submitted to Council.
21/10/2010	Briefing provided to the Joint Regional Planning Panel.
28/10/2010	Flood modelling submitted to Council.
03/11/2010	Conciliation Conference held at Council.
04/11/2010	Letter sent to applicant requesting additional details on The Cottell Way extension, detailed carpark design layout, flooding and site drainage details, and the preparation of a Species Impact Statement (SIS).
15/11/2010	Email sent to applicant requesting outstanding information and amended plans to include a six (6) metre setback from The Cottell Way to allow for a verge, suitable landscaping and a positive streetscape outcome. A review of the adequacy of on-site parking for the facility was requested as per the outcome of the conciliation conference held on 3 November 2010.
30/11/2010	Stage Two Contamination Report received.
23/12/2010	Amended architectural plans submitted to Council which consisted of the building location amended to provide a minimum 8.6m setback from the (future) Cottell Way extension, a minimum northern setback of 6 metres, a minimum western setback of 14 metres, a minimum southern setback of 17.7 metres and a minimum eastern setback of 32.7 metres. The amended proposal also includes changes to the design of the Cottell Way extension.
18/01/2011	Amended information received including updated Statement of Environmental Effects, landscape plan and SEPP No. 1 Objections

to reflect the changes in building setbacks.

21/01/2011	Amended plans and information notified for fourteen (14) days.
02/02/2011	Species Impact Statement received.
25/02/2011	Flooding Report and Modelling received.
05/03/2011	Updated civil engineering plans received.
24/03/2011	Status Report provided to JRPP.
01/04/2011	Meeting with Council staff and applicant to discuss drainage issues and construction and engineering requirements for The Cottell Way extension.
21/04/2011	Amended architectural plans, civil engineering plans and Stormwater Treatment Report received.

PROPOSAL

The proposed development is for the construction of a 144 bed residential aged care facility, a new drainage channel, extension of The Cottell Way, on grade car parking for 37 vehicles, pedestrian access to Windsor Road and associated landscaping. The development will have 36 dementia beds, 72 extra high-care beds and 36 standard high-care beds. A maximum of 48 employees will be on duty at one time.

The application was referred to the NSW Roads and Traffic Authority pursuant to State Environmental Planning Policy (Infrastructure) 2007, the Office of Water and the NSW Police Force. The comments received are addressed further within this report.

The subject site, which is currently vacant has an area of 12180m². The front and rear (east and west) boundaries are approximately 86 metres and the side (north and south) boundaries are approximately 150m. The site slopes significantly downward from the north-west corner to the south-east corner diagonally opposite, with a fall between 4 and 9 metres. The site is burdened by an existing drainage channel that traverses along the eastern side of the site in a north-easterly south-westerly direction. The proposal provides for a new drainage channel that adequately accommodates a 1 in 100 year flood event.

On the western side of the site is subject to a proposed road reserve which completes the 'missing link' of The Cottell Way. The proposed development will be accessed from The Cottell Way extension, with pedestrian access also available from Windsor Road, along the northern portion of the site.

The subject site contains scattered trees including eleven (11) *Eucalyptus saligna* (Blue Gum) and one (1) *Angophora floribunda* (Rough-barked apple) which belong to the Critically Endangered Ecological Community Blue Gum High Forest.

CONCILIATION CONFERENCE

A Conciliation Conference was held on 3 November 2010 attended by approximately 15 residents where issues relating to traffic, parking, safety and the environment as well as and the impacts of the proposal on the amenity of the neighbourhood were discussed.

These issues were raised in the residents' submissions, which are addressed under "Issues for Consideration" below. The following outcomes were achieved:

- Council staff will consider the issues raised by residents, including traffic, parking noise and safety.
- Council's Traffic Engineer will investigate the environmental capacity of The Cottell Way in respect to additional traffic generated by the proposal and ensure the extension is adequate and complies with Council's requirements. The closure of the temporary access road to Windsor Road will also be reviewed.
- The applicant be requested to further review the adequacy of on-site parking.

ISSUES FOR CONSIDERATION

1. Compliance with SEPP (Major Development) 2005

Clause 13(1) of SEPP (Major Development) 2005 provides the following referral requirements to a Joint Regional Planning Panel:-

"(1) This Part applies to the following development:

- (a) *development that has a capital investment value of more than \$10 million,*
- (b) *development for any of the following purposes if it has a capital investment value of more than \$5 million:*
 - (i) *affordable housing, air transport facilities, child care centres, community facilities, correctional centres, educational establishments, electricity generating works, electricity transmission or distribution networks, emergency services facilities, health services facilities, group homes, places of public worship, port facilities, public administration buildings, public ferry wharves, rail infrastructure facilities, research stations, road infrastructure facilities, roads, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, wharf or boating facilities,*
- (c) *Crown development that has a capital investment value of more than \$5 million,*
- (d) *Development for the purposes of eco-tourism facilities that has a capital investment value of more than \$5 million,*
- (e) *Designated development,*
- (f) *Subdivision of land into more than 250 lots."*

The proposed development has a capital investment value of \$28,274,181.00 thereby requiring referral to, and determination by, a Joint Regional Planning Panel. In accordance with this requirement the application was referred to the JRPP for determination.

2. SEPP No. 1 Objection to SEPP Housing for Seniors or People with a Disability 2004

Clause 40 of the SEPP contains height restrictions which relate to development in residential zones where residential flat buildings are not permitted. Clause 40(4) is outlined below.

“Height in zones where residential flat buildings are not permitted if the development is proposed in a residential zone where residential flat buildings are not permitted:

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

Note: Development consent for development for the purposes of seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height.

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

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

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

The proposal exceeds 8 metres with a maximum height of 10.25 metres. The building is part 2 part 3 storeys. There is a two storey encroachment into the “rear 25% area of the site” of 2 metres of the north-east wing and 1 metre of the south-east wing.

As such, SEPP 1 Objections are required to address Clauses 40(4)(a), (b) and (c) of the SEPP.

SEPP 1 Development Standards aims to “provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) of the Act”. In this respect in order to satisfy the requirements of the SEPP the applicant is required to justify why a development standard is unreasonable or unnecessary in the circumstances of the case.

Accordingly, the applicant has submitted SEPP 1 Objections to the provisions of each Clause within the SEPP.

Comment:

In accordance with Planning Circular B1 issued 17 March 1989 by the Department of Planning (known as the Department of Urban Affairs and Planning when the circular was released) an assessment of the applicant’s SEPP 1 Objections has been carried out. In assessing the applicant’s SEPP 1 Objections the following matters are addressed:-

(a) Whether or not the planning control is a development standard

Clause 40(4)(a) – 8 metre building height

The height of all buildings in the proposed development must be 8 metres or less as contained in Clause 40(4)(a) within the SEPP is considered a numerical development standard.

Clause 40(4)(b) – 2 storey height adjacent to the boundary

A building that adjacent to a boundary of a site (the site being, not only of that particular development, but also any other associated development to which this Policy applies)

must not be more than 2 storeys in height as contained within Clause 40(4)(b) within the SEPP is considered a numerical standard.

Clause 40(4)(c) – 1 storey height within rear 25% of the site

The building height must not exceed 1 storey in the rear 25% area of the site as contained in Clause 40(4)(c) within the SEPP is considered a numerical development standard.

(b) The underlying objective of the development standard

Clause 40(4)(a) – 8 metre building height

The underlying objective of the development standard is considered to relate to the height of development and potential impacts on adjoining properties, including overshadowing, overlooking and visual impact.

The proposal does not conflict with the zone objectives and is consistent with the underlying objectives of the development standard. See further comments below.

Clause 40(4)(b) – 2 storey height adjacent to the boundary

Clause 40(4)(b) includes one specific objective being:

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

The proposal is consistent with the objective of the development standard. See further comments below.

Clause 40(4)(c) – 1 storey height within rear 25% of the site

The underlying objective of the development standard is considered to relate to the scale of development on adjoining properties and impacts on amenity and privacy.

The proposal does not conflict with the zone objectives and is consistent with the underlying objectives of the development standard. See further comments below.

(c) Consistency of the development with the aims of the policy and the objectives of the Environmental Planning & Assessment Act, 1979 (EPA Act)

The proposal for a residential aged care facility is considered to be a compatible form of development with the residential development of the area. The development as proposed would assist in attaining the objectives specified in Section 5 (a)(i) and (ii) of the EPA Act, in particular the proper management and co-ordination of the orderly and economic use and development of land.

(d) Whether compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

Chief Justice Preston set out five alternative ways of establishing that compliance is unreasonable or unnecessary in the preparation of a SEPP 1 objection in *Wehbe v Pittwater Council* (2007) NSW LEC 827, albeit only one of these 5 ways needs to apply in order for the objection to be well founded.

1. *Establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achievable notwithstanding non-compliance with the standard.*
2. *Establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*
3. *Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*
4. *Establish that the development standard has been virtually abandoned or destroyed by Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*
5. *Establish that "zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to the land" and that "compliance with the standard in that case would also be unreasonable or unnecessary."*

Clause 40(4)(a) – 8 metre building height

The applicant has provided the following justification as to why the variation is not considered to be contrary to the objectives of the standard:

- *The variation would not result in an unreasonable overshadowing of any adjoining property. The shadow diagrams show that no adjoining private open space area or window is overshadowed by the proposal between the hours of 9am and 3pm in the winter solstice.*
- *The variation would not result in any unreasonable overlooking of any adjoining property. The areas of variation relate to roof, roof plant and the upper portion of some windows only. In general, the generous separation of the southern façade with the adjoining property to the south (20m and 25m) ensures that overlooking is appropriately mitigated, particular with the inclusion of trees within the car park to assist with screening.*
- *The variation would not result in any unreasonable visual impact. The areas in variation form a relatively minor portion of the overall building form and do not significantly add to the perception of building bulk and therefore visual impact. In general, as per privacy above, the generous separation of the southern façade with the adjoining property to the south (20m and 25m) ensures the visual bulk is appropriately mitigated, particular with the inclusion of trees within the car park area to assist with screening.*
- *In terms of ensuring a consistent building form, the minor areas of variation do not significantly add to the overall scale of the development that would otherwise comply with the height standard. In combination with the variation being minor, any impact from the scale of the development on the surrounding area is mitigated by the provision of generous setbacks around the perimeter of the building.*

Having regard to the above, it is clear that the proposed design will deliver a high quality design that presents a building that is without reasonable impact upon the amenity of the locality. Accordingly, it is considered that it is unnecessary to

strictly apply the development standard in this instance as the proposed design results in an outcome that is consistent with the objectives of the standard.

The non-compliance with the 8 metre maximum building height does not contribute to any adverse impacts such as overshadowing, overlooking or privacy. The variation to the standard does not significantly add to the bulk or scale of the development, which is minimised with significant setbacks from neighbouring developments, specifically to the south. To further mitigate the impacts of bulk and scale, generous landscaping is proposed within the site.

The justification provided by the applicant demonstrates that the variation to building height does not contravene the objectives of the standard and is considered satisfactory.

Clause 40(4)(b) – 2 storey height adjacent to the boundary

The applicant has provided the following justification as to why the variation is not considered to be contrary to the objectives of the standard:

In terms of impact on streetscape, the proposal is visible from Windsor Road and The Cottell Way to the south and west of the site. The areas of variation are only apparent from Windsor Road and The Cottell Way to the south. Each streetscape is addressed separately as follows:

Windsor Road

The 3 storey component is setback approximately 70m from the Windsor Road frontage and as a result, not easily read in this streetscape. A depression on the southern side of the site result in a lower level being accommodated below a primarily two storey building from along the middle of this façade.

Another factor which reduces the apparent scale of the building in the Windsor Road streetscape is that the Windsor Road street level is approximately RL 90m is less than 8m below the maximum height of the building. The majority of the building, including that component closest to the Windsor Road frontage, has a ceiling level of approximately RL 95m, only 5m above the road level. As a result, the form of the building from the streetscape is equivalent of a one to two storey building and therefore consistent with the streetscape.

The Cottell Way (south)

The 3 storey component is setback approximately 20m from the southern property boundary. The variation results from the difficulty in designing this style of facility on an undulating site. As outlined above, a depression on the southern side of the site results in a lower level being accommodated below a primarily two storey building form along the middle of this façade.

The size of the site allows for the visual impact of the façade taller than 2 storeys to be appropriately mitigated. In comparison to a two storey façade which would be setback less than 5 metres from any common property boundary. At 20 metres, the size of the site allows for the three storey component to have less visual impact than a typical two storey residential building otherwise permitted under Council's residential DCP.

Having regard to the above, it is clear that the proposed design will deliver a high quality design that presents a building that would not result in any abrupt change in the two streetscapes in which it is read. Accordingly, it is considered that it is unnecessary to strictly apply the development standard in this instance as the

proposed design results in an outcome that is consistent with the objectives of the standard.

The proposed non-compliance with the 2 storey height limit does not contribute to any adverse impacts, nor does it compromise the streetscape when viewed from Windsor Road or The Cottell Way. The third storey is located centrally within the site and will pose no privacy or amenity impacts.

The justification provided by the applicant demonstrates that the variation to the number of storeys does not contravene the objectives of the standard and is considered satisfactory.

Clause 40(4)(c) – 1 storey height within rear 25% of the site

The applicant has provided the following justification as to why the underlying objective is not relevant to the development:

- It is presumed that the 25% rear single storey provision is intended to relate to smaller residential infill sites, where a consistent street alignment prevails. This is not the case in this instance.*
- The sheer size of the site allows for the provision of generous side setbacks adjacent to allow side boundaries common with adjoining private open space areas. This ensures that the objectives of the standard are otherwise met.*
- Due to the need to create a road reserve through, what is considered, the existing rear of the site and in combination with the need to accommodate a drainage channel along the eastern end, or the existing front of the site, the logical applying the development standard is not relevant in the circumstances.*
- As a result, the encroachment subject of the variations is not adjacent to any rear private space area and therefore will not have any amenity impact as a result.*

Having regard to the above, it is clear that the proposed design will deliver a high quality design that presents a building that responds to the unique circumstances of the site and meets the underlying intent of the standard through other means. Where the circumstances relating to the site are atypical and not anticipated by the development standard, this development standard has no relevance to the development. Accordingly, it is considered that it is unnecessary to strictly apply the development standard in this instance.

The development site will have two frontages once The Cottell Way is extended and it is considered appropriate to consider the Windsor Road frontage the 'rear' of the property. No vehicular access is proposed from Windsor Road, and the development is presented and accessed from The Cottell Way, therefore the rear setback is on the eastern side of the site, fronting Windsor Road.

The proposed encroachment of the 2 storey structure into the rear 25% of the site is minor and does not result in any adverse amenity impacts such as overshadowing or overlooking on existing adjoining residents in terms of privacy, amenity, solar access or visual impact.

The justification provided by the applicant demonstrates that the variation to the 1 storey height limit within the rear 25% of the site does not contravene the objectives of the standard and is considered satisfactory.

(e) Whether the SEPP 1 objection is well founded

Compliance with the above development standards is considered unnecessary in the circumstances where the variation is minor and the circumstances of the site render the standard irrelevant. Strict application of the development standards would hinder the attainment of the objectives of the EP & A Act pertaining to the orderly and economic use and development of the land.

Therefore, the SEPP 1 objections are considered to be well founded and are considered satisfactory.

3. Compliance with SEPP Housing for Seniors or People with a Disability 2004

The provisions of Chapter 3 of the SEPP state that the objective of this chapter is to *"create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age"*.

Clause 17(1) of the SEPP restricts development on land that adjoins land zoned primarily for urban purposes unless the proposed development is for the purpose of any of the following:

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

The applicant seeks approval for a residential care facility under the provisions of the SEPP given the site is Residential 2(a2) zoned land which supports medium density development, it is considered that the proposal is acceptable.

A Residential Care Facility is defined within Clause 11 as:-

'residential care facility'

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

- (a) meals and cleaning services;*
- (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 proposed residential care facility will provide meals, cleaning and nursing services to residents and it is considered that adequate staffing, furniture and equipment will be provided in accordance with the definition.

As such it is considered that the proposal complies with the requirements of the SEPP in respect to the definition of a residential care facility.

a. **Clause 26 - Location and Access to Facilities**

The table below provides an assessment of the location and access requirements to facilities for the proposed development. As indicated, the proposal complies.

DEVELOPMENT STANDARD	SEPP REQUIRES	PROPOSED DEVELOPMENT	COMPLIANCE
Facilities	(a) Shops, banks and other retail and commercial services (b) Community services and recreational facilities (c) General medical practitioner	Within the locality all facilities and support services are available to residents, with most services available at Stockland Mall Baulkham Hills and a major centre at Castle Hill (Castle Towers).	Yes
Location and access	<p>Access is considered to comply if:</p> <p>(a) the facilities and services listed above are located at a distance of not more than 400m from the site and the overall gradient is no more than 1:14, with alternate acceptable gradients for short distances, or</p> <p>(b) there is a public transport service available to the residents who will occupy the development:</p> <p>(i) that is located at a distance of not more than 400 metres from the site of the development, and</p> <p>(ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the relevant facilities or services, and</p> <p>(iii) that is available both to and from the</p>	<p>There are no facilities either existing or proposed within 400m of the site.</p> <p>The closest bus-stop to the site is located on Windsor Road and is within 400m of the development. The Hills Bus has a regular service (601) will be provided to this bus stop which complies with the clause.</p> <p>There are bus set down areas located within the town centre of Baulkham Hills which provides all of the facilities listed in this section. This bus also travels between Parramatta and Rouse Hill.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

DEVELOPMENT STANDARD	SEPP REQUIRES	PROPOSED DEVELOPMENT	COMPLIANCE
	<p>development during daylight hours at least once between 8am and 12pm and at least once between 12pm and 6pm from Monday – Friday (both days inclusive).</p> <p>Grades of pathway to public transport to comply – 1:8 or less.</p>	<p>The bus service to Baulkham Hills centre will be regularly available during weekdays.</p> <p>Footpath grade 1:40 or 1:14 and is a suitable access pathway.</p>	Yes

b. Clause 28 - Water and Sewer Services

The SEPP states that Council must not consent to a development application unless the Council is satisfied that the development will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage. In this respect, regard must be given to the suitability of the site and availability of services.

Given the development site is located in a suburban area, water and sewer services are available.

c. Clause 32 – Design of residential development

Clause 32 states that a consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 (Clauses 33 - 39), discussed below.

d. Clause 33 - Neighbourhood Amenity and Streetscape

The proposed footprint and orientation of the development responds to the unique constraints of the site. The existing drainage channel at the eastern end of the site dictates that the building be significantly set back from Windsor Road. The construction of The Cottell Way extension creates a new street frontage on the western side of the site. The proposed orientation to the west and designation of the Windsor Road frontage as the “rear” setback is a logical solution that accords with the technical setback requirements of the SEPP. The setback in relation to the side boundaries has been maximised to range between 6.9 metres and 20.34 metres. The setback to the south at a minimum of 17.7 metres will ensure that overshadowing is minimised. Within the limited constraints of having to ensure the building is a single form, the height and setbacks have been varied to ensure the form is largely two storeys in scale and setback from neighbouring properties to the north, south, and west to ensure impact is minimised.

Significant re-contouring of the site is required to improve the existing stormwater overflow channel to acceptable standards. As a result several trees are proposed to be removed and replaced with species better suited to the site.

e. Clause 34 - Visual and Acoustic Privacy

The design of the building ensures elevated windows are generously setback from the property boundaries. The northern elevation is generally restricted to between 1 and 2 storeys in height. The development has a northern setback of between 6.9 metres and 13.520 metres and it is considered that the separation is greater than that typically applied to a medium density development.

Open recreation areas are largely limited to ground level gardens. Where terraces are located above ground level, they have a generous setback of 10m to the north and 20m to the south. This separation combined with their low intensity use will ensure that acoustic and visual privacy impacts are minimal. Additionally, the development is to be heavily landscaped with provides additional screening and mutual privacy between the occupants of the facility and neighbouring properties.

f. Clause 35 - Solar Access and Design for Climate

The design featuring a centre core with four wings orientated on an east-west axis ensures that each wing will receive good levels of light and ventilation. The open spaces between the wings will also receive good balance of light and shade.

g. Clause 36 - Stormwater

The development site is subject to an existing "natural depression, the overland flow path" that conveys stormwater runoff from a large catchment upstream of the site enters across Windsor Road, to a piped drainage network existing along the downstream of The Cottell Way.

The applicant submitted a 'Flood Study Report' dated February 2011, prepared by Bewsher Consulting Pty Ltd. in conjunction with a 'Siteworks and Stormwater Plan' drawing 091839 C02 – Revision H dated 19/04/2011 and a Civil Design Report 091839P dated April 2011, both prepared by Taylor Thomson Whittling Consulting Engineers. The reports confirm that no adverse impact on existing flood behaviour or to the proposed development. Council's concurs with the proposed waterway design (a combination of piping and overland flow path) and the methodology used in analysing pre and post development flood behaviour.

Accordingly, appropriate conditions are recommended requiring substantial compliance in terms of design and construction, and maintenance requirements.

h. Clause 37 - Crime Prevention

Crime prevention and security control is of a prime importance for a development of this nature. Secure access points will be provided to the main building entries and garden areas.

Casual visual surveillance of the public domain will be achieved from many rooms in the building that are orientated toward The Cottell Way extension and Windsor Road. Territorial reinforcement is achieved through the use of fences and footpaths and perimeter planting. Visitors arriving via public transport from Windsor Road will enter through a security controlled door which will have a buzzer system or be card controlled or coded.

i. Clause 38 - Accessibility

A bus stop is located directly north of the eastern boundary of the site. The bus on this route provides a regular service to the local shopping centre at Baulkham Hills on Windsor Road some 500m to the south of the site. The pathways are designed to ensure a continual accessible path of travel is provided to the bus stop.

Car parking on site is located on grade to the south of the building. Staff and visitors can access the building via a door directly adjacent to this car park. Accessible parking is provided adjacent to the main entrance to the west of the building.

j. Clause 39 - Waste Management

Waste will be collected from the site by a commercial contractor. Access to the waste area will be via the loading dock on the southern side of the building. The Development Application is accompanied by a detailed waste management plan which has been deemed satisfactory by Council.

k. Clause 40 - Development standards—minimum sizes and building height

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

DEVELOPMENT STANDARD	SEPP REQUIRES	PROPOSED DEVELOPMENT	COMPLIANCE
Site size	The size of the site must be at least 1,000m ²	12,180m ²	Yes
Site frontage	The site frontage must be at least 20 metres wide at the building line.	Site width is approximately 85 metres.	Yes
Height in zones where residential flat builds are not permitted.	(a) 8 metre maximum (b) 2 storeys where adjacent to a boundary (c) building within the rear 25% not be greater than 1 storey	(a) The development exceeds 8 metres. Portions of the roof, upper portion of the screened roof service zone and the façade (up to 1m in depth) on the southern and eastern façade of the central southern portion of the building exceed the 8 metre high limit up to a maximum of 2.5 metres. (b) The development is largely 2 storey, except for the central core component facing north and south. (c) Point encroachment only.	No. The application has been accompanied by a SEPP No. 1 Objection that has been prepared in response to each of the three variations (refer section 2).

I. Clause 49 – Standards that cannot be used to refuse development consent for residential care facilities

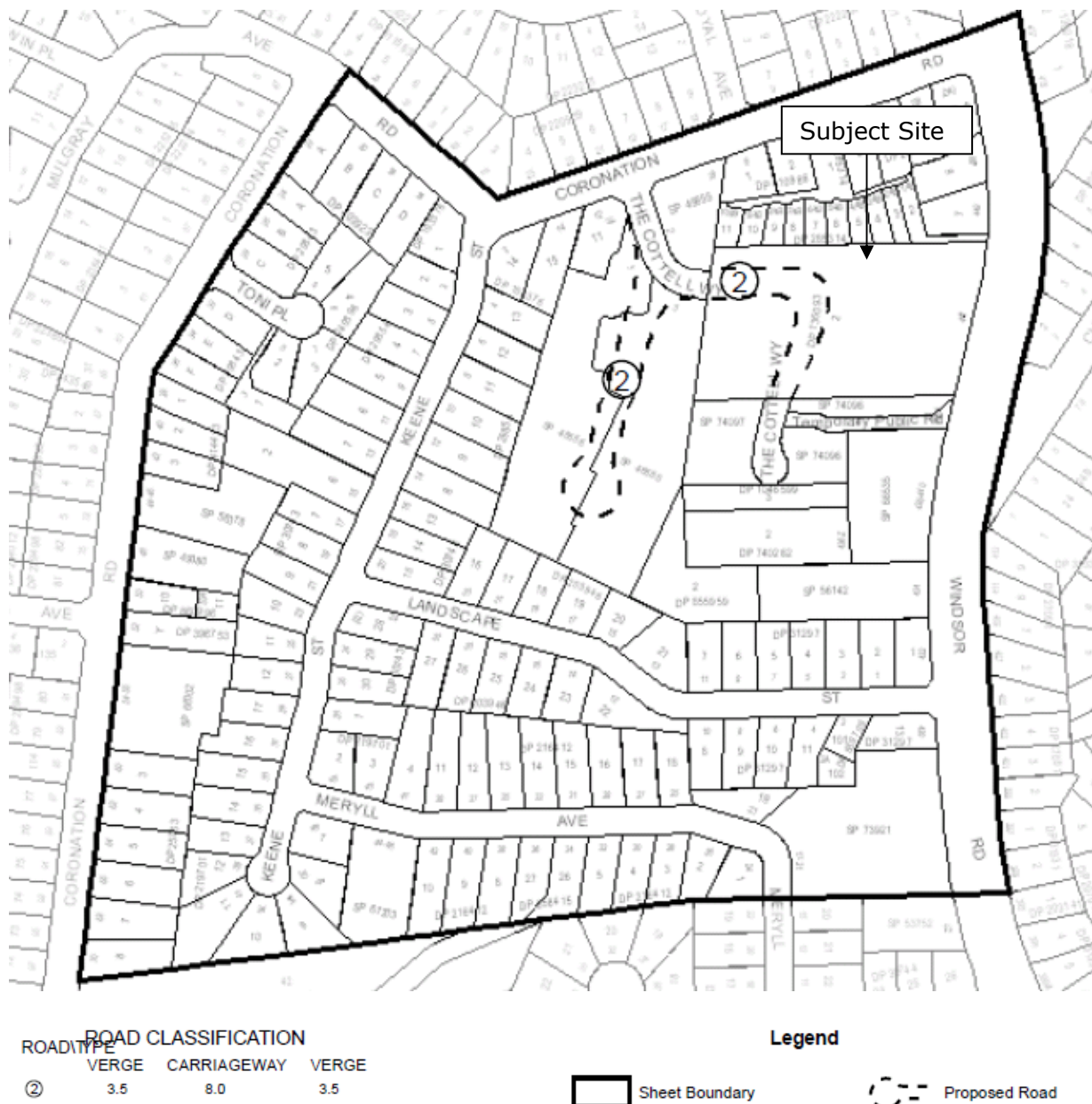
A consent authority must not refuse consent to a Development Application made pursuant to this chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds: building height, density and scale, landscaping and parking.

DEVELOPMENT STANDARD	SEPP REQUIRES	PROPOSED DEVELOPMENT	COMPLIANCE
Density and Scale	Maximum FSR 1:1	0.64:1	Yes
Landscaped area	Minimum 25m ²	3600m ² required (25 x144), 6489.5m ² proposed.	Yes
Parking 1 per 10 beds 1 per 15 dementia beds 1 space per 2 employees on duty 1 parking space suitable for ambulance	108/10=10.8 spaces 36/15 = 2.4 spaces 48/2 = 24 spaces Total = 37.2 spaces Ambulance parking is available at the front entrance.	Proposed 37 spaces Ambulance parking at the front of the building.	Yes Yes

4. Compliance with BHDGP Part C, Section 3 – Residential

Baulkham Hills Development Control Plan Part C Section 3 Residential provides details as to local subdivision patterns, road layouts and development controls, in particular the missing road infrastructure within the site and link to the currently isolated cul-de-sac section of The Cottell Way.

Sheet 22 of the DCP specifically applies to the subject site (refer below).



The Cottell Way extension is to have a 3.5m verge, 8.0m carriageway and a 3.5m verge and follow the layout in accordance with the above map.

The proposed development seeks a variation to this predetermined road alignment.

A variation to a pre-determined road pattern can be generally considered where it is demonstrated that the proposed variation will not affect the development potential of adjoining properties whilst also providing for orderly development.

The proposal to realign the extension of The Cottell Way along the western boundary is to achieve the proposed development to its full potential, given consideration to a major site constraint, i.e. the design of floodway, located along the eastern boundary. However, the variation to the proposed extension is only within the subject site, as the southern and western part of The Cottell Way had been already established. The concept civil design provided with the application have demonstrated a design compliance that the proposal can accommodate garbage collection vehicles and delivery trucks, which will be servicing the site and the existing town house development to the south. The

proposal also includes a minor variation to the nature strip width to a small length at the southern end of the road.

The variations have been reviewed against Council's design requirements and the best engineering practices and are considered satisfactory, subject to the recommended conditions of consent.

5. Compliance with BHDGP Part D, Section 1 – Parking

Baulkham Hills Development Control Plan Part D, Section 1 – Parking applies to the proposed development, however has limited applicability given the parking standards with SEPP Housing for Seniors or People with a Disability. The proposed development has been assessed against the relevant development standards and the following variation has been identified. The DCP has landscaping requirements for outdoor parking including the following:

(a) Outdoor parking areas are to be provided with two metre wide landscaping strips:

- *Between rows served by different aisles.*
- *Between spaces at a rate of one in every ten car parking spaces.*

(b) Outdoor parking areas are to be screened by a minimum of two metre wide landscaping strips. Such landscaping is to be of a mature and dense nature and be designed according to Part D Section 3 – Landscaping of this DCP

Comment: The proposal does not comply with part (b) as a 1.5 metre unlandscaped setback is provided between the outdoor parking area and the southern boundary. This variation is considered acceptable given the parking area is at a lower level than the neighbouring property minimising visual and acoustic impacts. A gabion retaining wall and a 1.8m boundary fence is proposed to the south of the parking area, along the boundary. Additionally, shade tree planting is provided every three car parking spaces which provides shade and improves the aesthetic appearance of the parking area.

6. Flora and Fauna

The Arborist Report submitted with the Development Application identified Blue Gum High Forest (BGHF) on the site which was proposed to be entirely removed as part of the development. Consequently, Council requested that a Flora and Fauna report be prepared for the site. The Flora and Fauna report submitted to Council confirmed the presence of BGHF on the site and its proposed removal.

The removal of 100% of the community on the site which does not extend beyond the site boundary was considered to be a significant impact and a Species Impact Statement (SIS) was therefore required to be prepared.

The SIS concluded that:

"The remnant canopy trees on the site are not considered to contribute significantly to the overall survival of BGHF within the locality and due to the disturbance experience on the subject land, resulting in poor regenerative potential; this remnant has very low conservation significance. The small size and degraded nature of the vegetation also prevents the remnant from qualifying as BGHF under the Commonwealth EPBC Act listing. For this reason, no referral to the Commonwealth is required for the proposal."

Revegetation of the site will include native species of 0.27 ha from the BGHF community along the eastern portion of the site. Once constructed, the vegetation will provide an additional area of higher quality BGHF capable of supporting a wider variety of flora and fauna.

Council has reviewed the SIS, and support the ameliorative measures suggested to reduce any likely impacts on threatened species and are of the opinion that the proposed development is unlikely to have a significant impact on any threatened species. Therefore, concurrence with Department of Environment, Climate Change and Water is not required in this instance. Relevant conditions of consent have been applied to ensure that the ameliorative measures are implemented including propagation of Blue Gum High Forest in the area dedicated for revegetation and preservation/conservation of fauna habitat.

7. Issues Raised in Submissions

The Development Application was placed on public notification for a period of fourteen (14) days. Sixteen (16) submissions were received for the original proposal, including a petition containing 24 signatures and four (4) submissions including a petition containing 12 signatures were received for the amended proposal.

While the issues raised are not considered to warrant refusal or amendment of the Development Application, the issues have been addressed within the table below:-

ISSUE/OBJECTION	COMMENT	OUTCOME
The Cottell Way is narrow and cannot cope with the additional traffic.	The application has been assessed by Council's Traffic Engineer who has determined that the environmental capacity of The Cottell Way is sufficient to cater for the expected traffic generation of the residential aged care facility and neighbouring residential properties.	Issue addressed.
The proposal should be accessed from Windsor Road, and not The Cottell Way which is more equipped to handle the additional traffic.	The construction of the extension of The Cottell Way is expressed in Council's DCP. The RTA would not support access to the site from Windsor Road as the site has an alternative access point from The Cottell Way.	Issue addressed.
Adverse noise and pollution impacts will result during construction of the facility.	Appropriate conditions of consent will minimise impacts on neighbours during the construction phase of the development.	Issue addressed (refer to Conditions Nos. 30 and 92).
The development will result in view loss from my property.	Due to the sloping nature of the site, the building ranges from 1 to 3 storeys. The development has a maximum height of 9 metres (which exceeds the 8 metre height limit which is supported by a SEPP No. 1 Objection). It is considered that the proposal does not result in any unreasonable view loss.	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
The development will result in adverse noise impacts (i.e. additional traffic, ambulances, delivery trucks, location of loading zone).	The issue of noise was addressed at the conciliation conference. The applicant has indicated that generally, when ambulances visit the site, lights and sirens are not on. The applicant also indicated that the use of the site is a docile development in comparison with a townhouse or villa style development given the physical and metal constraints of its occupants. Conditions of consent address noise impacts.	Issue addressed.
The location of the loading bay is inappropriate.	The loading dock is located on the southern side of the building which is the lowest point and is considered to be most appropriate location on the site. The loading dock is 21 metres from the southern boundary and approximately 30 metres from the nearest neighbour to the south.	Issue addressed.
The additional traffic poses a safety risk to neighbourhood children.	The amended plans illustrate a footpath on both sides of The Cottell Way, therefore it is considered that there is a safe path of movement between the north and south of the site for children in the area.	Issue addressed.
Concern is raised over the removal of the trees on site.	Some of the trees on site have been identified as endangered ecological community Blue Gum High Forest. As required by the Department of Environment and Climate Change NSW, a species impact statement (SIS) has been prepared in addition to a flora and fauna report has been assessed by Council. After review of the SIS, and consideration of ameliorative measures suggested to reduce any likely impacts on threatened species. The proposed development is unlikely to have a significant impact on any threatened species. Therefore, concurrence with Department of Environment, Climate Change and Water is not required in this instance. Relevant conditions of consent will be provided to ensure that the ameliorative measures are implemented.	Issue addressed.
The proposed 37 car parking spaces is inadequate for	The proposal complies with the parking requirements under the	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
staff and visitors to the site. Staff and visitors will park on neighbouring streets.	SEPP. However, during the conciliation conference, the applicant was requested to consider providing additional parking, however the applicant stated that they feel they do not require any additional parking to meet the needs of employees and visitors above what is required under the SEPP.	
Concern is residents of the facility escaping and causing a disturbance to neighbouring residents.	Security throughout the site will be carefully managed. All entry points will include buzzer or key access. Access to the outdoor courtyard will be limited to those within the facility. Patients who are likely to 'wander' will be located in secure units.	Issued addressed.
The nature and scale of the building is not typical of the surrounding suburban area, and is out of character with the surrounding buildings.	The site is zoned Residential 2(a2) under the BHLEP 2005, which is a medium density zone. The proposed residential aged care facility is considered to be an appropriate use in the medium density locality. The built form is controlled by the provisions specific for this form of accommodation under the SEPP. The proposal appropriately responds to the requirements of the SEPP in terms of compatibility, amenity, impact, landscaping and open space.	Issue addressed.
There are privacy and overlooking impacts from the proposed development.	The design of the building ensures elevated windows are generously setback from the property boundary and landscape screening provided between properties. Open recreation areas are largely limited to ground level gardens. Where terraces are located above ground level, they have generous setbacks of 10m to the north and 20m to the south.	Issue addressed.
The proposal will result in adverse overshadowing impacts.	The proposed building is located to ensure the setback to the southern boundary is maximised. The shadow diagrams submitted with the application illustrate the no adjoining private open space is affected by overshadowing between the hours of 9am and 3pm during the winter solstice. Overall, the location of the building ensures that overshadowing is largely contained within the site itself.	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
The development will emit adverse odours.	The building contains suitable mechanical ventilation and will be constructed to relevant standards under the Protection of the Environment Operations Act, 1997. A condition of consent addresses odour control.	Issue addressed.
Concern whether adequate electrical load will be provided.	The Development Application was accompanied by an Electrical & Telecommunications Services Infrastructure Report/Feasibility which addresses existing and proposed power supply and loads. The report states that the new development can be supplied from a new pad-mounted substation, with 11kV likely to come from Windsor Road 11kV overhead supply.	Issue addressed.
The site is burdened by drainage issues, and potential impact of flooding on neighbouring properties to the south.	Drainage and flooding is considered to be a major burden/constraint on the site. A flood report and relevant hydrological mapping to the satisfaction of Council has been submitted with the application. Appropriate conditions of consent have been provided in relation to flooding and drainage.	Issue addressed.
The development will devalue neighbouring properties.	The issue of property value is not a planning consideration.	Issue addressed.
The location of the site contravenes Section 26 of the SEPP, location and access to facilities.	The application complies with the relevant standards of the SEPP in relation to location and access to facilities, refer to assessment above.	Issue addressed.
There is not a properly formed footpath on the western side of Windsor Road, fronting the subject site.	The construction of a footpath (to Council's satisfaction) on the western side of Windsor Road will be a condition of consent.	Issue addressed.
The development will stock narcotics and drug addicts and paedophiles will be attracted to the facility putting children in the neighbourhood at risk.	This issue is not considered to be a planning issue, nevertheless this issue was addressed during the conciliation conference where the applicant stated that there are small amounts of Class A drugs on site which are in a secure storage unit. In the applicant's experience, the only incidence of theft has been from staff, with no break-ins recorded in similar establishments.	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
The type of vegetation/planting along the boundaries should be limited in height as to not overshadowing neighbouring properties, but should provide screening.	Planting along the western boundary consists of blueberry ash which is to be maintained to fence height. Planting along the northern boundary is a mix of trees and shrubs, mainly being lily pilli which has a maximum height of 3 metre.	Issue addressed.
What type of boundary fence is proposed?	The boundary fence will have a height of 1.8 metres. The materials of the fence have not been nominated by the applicant.	Issue addressed (refer to Condition 51).
What will stabilise the land between the subject site and neighbouring properties where there is a difference in levels?	The proposal incorporates the use of retaining walls to provide suitable retention of land where there is a difference of levels.	Issue addressed.
The site plan should show the location of site sheds and stockpiling of materials.	These details have been provided in the Construction Management Plan, nevertheless, conditions of consent are recommended to ensure minimal impact to neighbouring properties during the construction phase of the development.	Issue addressed.
A colony of red-bellied black snake occupies the site and concern is raised over the relocation of the snakes.	As discussed during the conciliation conference, the flora and fauna report submitted states that there was no conclusive evidence of the snakes living on the site, but there was evidence that they have been there. The applicant stated that appropriate measures will be taken to capture and release the snakes during construction.	Issue addressed (refer to Condition 50).
Windsor Road is noisy and the location is not suitable for an aged care facility which should be in a more quiet and peaceful location.	An acoustic report has been submitted with the Development Application which reviews the traffic noise intrusion and considers the development to be satisfactory. The development has been setback a minimum of 32 metres and benefits from a dense landscape buffer between the building and Windsor Road which providing additional screening.	Issue addressed.
The amended plans do not address concerns raised including inadequate carparking, privacy impacts	Although some of the issues raised in the previous submissions have not been addressed with the amended plans (such as the provision of	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
and safety issues.	additional parking) it is considered that the issues raised do not warrant significant amendments to the building and have been addressed elsewhere in this report.	
If the development was smaller in scale it would be less evasive, and should be single level or should be moved 2 metres south (along the northern boundary).	Due to the sloping nature of the site, the northern elevation of the development is generally 2 storeys (apart from a 5m length portion in the middle of the northern elevation which is 3 storeys) and has a minimum setback of 6.9 metres at the eastern end and a maximum setback of 13.25 metres at the centre of the building. The northern side setback has been adequately screened with landscaping and the proposed setback is considered satisfactory in this instance. It is considered another form of development that is permitted on the subject site would have lesser northern setback to that which is proposed.	Issue addressed.
There should be a greater setback from the proposed carpark at the southern side of the site and the property boundary to the south.	The proposed carpark is setback 1.5 metres from the southern setback. This does not comply with Council's controls, however given the site constraints and the difference in levels (carpark is approximately 2m below natural ground level) which is contained by a gabion retaining wall, the proposed setback is considered satisfactory.	Issue addressed.
Issue is raised over the waste collection access through the site which will result in health hazards.	A condition of consent is recommended which regulates waste collection for the development.	Issue addressed (refer to Conditions Nos 17-21).

7. Compliance with Section 79C of the Environmental Planning & Assessment Act, 1979

The proposal has been assessed against Section 79C of the Environmental Planning and Assessment Act 1979 as follows:-

(a) (i) Any environmental planning instrument

Satisfactory as detailed within sections 1-3 of this report above.

(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and

The Draft The Hills Local Environmental Plan (LEP) 2010 which was exhibited on 29 March 2011 to 13 May 2011 proposes to zone the site as R3 Medium Density Residential. The proposed development would continue to be permissible in the R3 zone, pursuant to the SEPP Housing for Seniors or People with a Disability 2004.

(iii) any development control plan, and

Satisfactory as detailed within sections 4-5 of this report above.

(iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and

Not applicable – there is no planning agreement applicable to the proposed development.

(iv) any matters prescribed by the regulations,

Satisfactory.

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

Satisfactory – The subject proposal will not have an adverse impact on the surrounding residential and character of the area, nor provide an unsatisfactory social, environmental or economic impacts in the locality.

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

Satisfactory – the proposal development will have a built form and bulk and scale that is suitable for the locality. The facility will be adequately serviced in terms of water and electricity.

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

Sixteen (16) submissions were received for the original proposal, including a petition containing 24 signatures and four (4) submissions including a petition containing 12 signatures were received for the amended proposal. The submissions are addressed within section 7 of this report above.

(e) the public interest.

Satisfactory – The proposed development is not considered to provide unsatisfactory social or environmental impacts within the locality. The facility will provide additional beds to the locality, and will provide a service which is becoming increasing in demand for the aging population.

SUBDIVISION ENGINEERING COMMENTS

The Development Application was referred to Council's Engineering Section to review the stormwater drainage and flooding measures associated with the proposal, as well as The Cottell Way extension and car parking arrangements. The development site is burdened an existing natural depression/overland flow path that conveys stormwater runoff from a large catchment upstream of the site, across Windsor Road, to a piped drainage network existing along the downstream of The Cottell Way. Council's Engineering Section is

satisfied with the reports prepared for the site which confirm that no adverse impact on existing flood behaviour or to the proposed development result from the proposal. Council's concurs with the proposed waterway design (a combination of piping and overland flow path) and the methodology used in analysing pre and post development flood behaviour. Appropriate conditions are included in the consent requiring substantial compliance in terms of design and construction as well as maintenance requirements.

The concept civil design submitted with the application has demonstrated a design compliance that the proposal can accommodate garbage collection vehicles and delivery trucks, which will be servicing the site and the existing town house development to the south. The proposed Cottell Way extension has been reviewed against Council's design requirements and the best engineering practices and is considered satisfactory, subject to conditions.

Overall, no objection is raised to the proposed development subject to conditions of consent.

TRAFFIC MANAGEMENT COMMENTS

The Development Application was referred to Council's Traffic Management Section to review the traffic implications of the proposal. After reviewing the traffic report prepared by Colston Budd and associated information Council is satisfied that the proposed traffic generation is relatively low and will have a negligible impact on the environmental capacity of The Cottell Way and the surrounding road network. No objection is raised to the proposed development subject to conditions of consent.

TREE MANAGEMENT COMMENTS

The Development Application was referred to Council's Tree Management Section to review the proposed tree removal and the landscaping proposed for the site. No objection is raised to the proposed development subject to conditions of consent.

HEALTH & ENVIRONMENTAL SUSTAINABILITY COMMENTS

The Development Application was referred to Council's Health and Environmental Sustainability Section to review the environmental impacts of works as well as acoustic implications, including the Noise Emission Report prepared by Wilkinson Murray dated September 2010 and the Environmental Site Assessment prepared by Environmental Investigation Services (EIS) dated November 2010 submitted at the request of Council as part of the assessment of the proposal.

No objection is raised to the proposed development subject to conditions of consent.

FLORA AND FAUNA COMMENTS

The Development Application was referred to Council's Flora and Fauna Officer to review the Species Impact Statement ('SIS') prepared by Cumberland Ecology January 2011 for the subject site. Based on the review of the SIS, and consideration of ameliorative measures suggested in the report to reduce any likely impacts on threatened species Council is satisfied that the proposed development is unlikely to have a significant impact on any threatened species, therefore, concurrence with Department of Environment, Climate Change and Water was not required in this instance.

No objection is raised to the proposed development subject to conditions of consent which ensure that the ameliorative measures are implemented including the propagation of Blue Gum High Forest in an area on the site dedicated for revegetation and preservation/conservation of fauna habitat (refer to Condition Nos 47, 48, 49, 50 and 85).

WASTE MANAGEMENT COMMENTS

The Development Application was referred to Council's Waste Management Section to review the construction and ongoing use waste requirements. No objection is raised to the proposed development subject to conditions of consent.

WATERWAYS COMMENTS

The Development Application was referred to Council's Waterways Section to review the flood modelling provided with the application. No objection is raised to the proposed development subject to conditions of consent.

NSW OFFICE OF WATER

The Development Application was referred to NSW Office of Water to confirm if the proposed works were considered integrated development. The Office of Water confirmed that the proposed works are not integrated development.

ROADS & TRAFFIC AUTHORITY COMMENTS

The Development Application was referred to the RTA for comment as the site is located on a classified road. The RTA provided comments, dated 12 November 2010 and 13 May 2011 which have been included as Appendix (1) as part of the consent (Condition No. 2).

NSW POLICE COMMENTS

The Development Application was referred to the NSW Police for comments under Council's adopted "Safer by Design" Protocol.

The Police comments have been incorporated into a condition of consent. Refer to Condition No. 3.

CONCLUSION

The proposal has been assessed having regard to the provisions of Section 79C of Environmental Planning and Assessment Act 1979, State Environmental Planning Policy (Infrastructure) 2007, and State Environmental Planning Policy Housing for Seniors or People with a Disability 2004 and is considered to be satisfactory. The non-compliances with the building height and setback standards have been justified in the SEPP No. 1 Objections submitted with the application, and the non-compliances do not result in any adverse impacts to neighbouring properties.

The objections raised in the submissions have been assessed in the report and do not warrant refusal of the application. A number of conditions of consent could be imposed to address the issues raised within the submissions should the application ultimately be recommended for approval.

Overall, the applicant has overcome issues which burden the site and have provided a development that is suitable for the site. The development does not result in any adverse impacts to neighbouring properties and provides a facility which benefits the locality and community as a whole.

As a result the proposed Development Application is considered satisfactory subject to conditions of consent.

IMPACTS:

Financial

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

Hills 2026

The proposed development is consistent with the planning principles, vision and objectives outlined within "Hills 2026 – Looking Towards the Future" as the proposed development provides for satisfactory urban growth without adverse environmental or social amenity impacts and ensures a consistent built form is provided with respect to the streetscape and general locality.

RECOMMENDATION

The Development Application be approved subject to the following conditions of consent:

GENERAL MATTERS

1. Development in Accordance with Submitted Plans (as amended)

The development being carried out in accordance with the approved plans and details submitted to Council, as amended in red, stamped and returned with this consent. No work (including excavation, land fill or earth reshaping) shall be undertaken prior to the issue of the Construction Certificate, where a Construction Certificate is required

The amendments in red include:

- The Cottell Way extension is to be consistent with civil engineering plans prepared by Taylor Thomson Whitting (Drawing No. C02, Revision H, dated 19/04/2011).

REFERENCED PLANS

DRAWING NO	DESCRIPTION	REVISION	DATE
DA002	Site Plan	C	20/04/2011
DA003	Level 1 Plan	C	20/04/2011
DA004	Level 2 Plan	C	20/04/2011
DA005	Level 3 Plan	C	20/04/2011
DA006	Roof Plan	C	20/04/2011
DA007	Elevations and Sections Sheet 1	C	20/04/2011
DA008	Elevations and Sections Sheet 2	C	20/04/2011
DA010	Exterior Finishes	C	20/04/2011

2. Compliance with Roads and Traffic Authority (RTA) Requirements

Compliance with the requirements of the Roads and Traffic Authority (RTA) requirements attached as Appendix (1) to this consent and dated 12 November 2010 and 13 May 2011.

3. NSW Police Comments

The following conditions are required by the NSW Police Service or as otherwise agreed by NSW Police and Council in writing:

- i. Lighting is required to meet minimum Australian Standards to ensure safety by improving visibility and detection of offenders. Special attention should be given to lighting for the entry/exit points from the building, car park and access/exit driveways. Site transition lighting is needed to reduce visual impairment i.e. walking from light to dark places.
- ii. Landscape works are to be maintained at all times to minimise concealment and entrapment opportunities.
- iii. The site is to be clean and maintained at all times, including repairing vandalism and graffiti, replacement of car parking lighting and general site cleanliness.
- iv. Many graffiti vandals favour porous building surfaces, as 'tags' are difficult to remove and often a ghost of the image will remain even after cleaning. Easily damaged building materials may be less expensive to purchase initially, but their susceptibility to vandalism can make them a costly proposition in the long term, particular in at-risk areas. This should be considered when selecting material for construction.
- v. The use of sensor lighting and a security company to monitor the site while construction is in progress is recommended.
- vi. If nursing staff are working a shift where only one nurse is on-site, it is suggested that the nurse be given a mobile panic alarm in the event an unauthorised entry is made to the facility. This will enable the nurse to raise alarm without having to locate and activate a fixed panic alarm.
- vii. Medicine room/s and or cabinets are to be alarmed as well as any doors that give external access to the street.

4. Construction Certificate

Prior to construction of the approved development, it is necessary to obtain a Construction Certificate. A Construction Certificate may be issued by Council or an Accredited Certifier. Plans submitted with the Construction Certificate are to be amended to incorporate the conditions of the Development Consent.

5. Building Work to be in Accordance with BCA

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

6. Provision of Parking Spaces

The development is required to be provided with 37 off-street car parking spaces (including 4 disabled car spaces). These car parking spaces shall be available for off street parking at all times.

7. External Finishes

External finishes and colours shall be in accordance with the details submitted with the development application and approved with this consent.

8. Separate application for signs

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

9. Air Conditioner Location

All air conditioning units shall be located at a distance greater than 3 metres from a boundary of the property or if located within 3 metres of the boundary the noise level of an air conditioning unit is not to exceed more than 5dB(A) above the ambient background noise level when measured at the property boundary.

10. Tree Removal

Approval is granted for the removal of trees numbered 1- 24 as per Arboricultural Assessment and Development Impact Report prepared by Urban Forestry Australia and dated July 2010.

11. Planting Requirements

All trees planted as part of the approved landscape plan are to be minimum 75 litre pot size. All shrubs planted as part of the approved landscape plan are to be minimum 200mm pot size. Groundcovers are to be planted at 5 per m².

12. Tree/s to be retained

To maintain the treed environment of the Shire, trees numbered 25 & 26 (located within adjoining properties as per Arboricultural Assessment and Development Impact Report prepared by Urban Forestry Australia and dated July 2010 are to be retained.

13. Adherence to Waste Management Plan

The Waste Management Plan submitted to Council must be adhered to at all stages in the demolition/construction/design of facilities and on-going use phases. All waste material nominated for recycling must be reused or recycled. Any material moved offsite is to be transported in accordance with the requirements of the Protection of the Environment Operations Act (1997) and only to a place that can lawfully be used as a waste facility. Dockets/receipts verifying recycling/disposal must be kept and presented to Council when required.

14. Waste Storage and Separation – Construction and Demolition

The reuse and recycling of waste materials must be maximised during construction and demolition. The separation and recycling of the following waste materials is required:

- a) Masonry products (bricks, concrete, concrete roof tiles) to be sent for crushing/recycling;
- b) Timber waste to be separated and sent for recycling;
- c) Metals to be separated and sent for recycling;
- d) Clean waste plasterboard to be returned to the supplier for recycling (excluding plasterboard from demolition); and
- e) Mixed waste (plastic wrapping, cardboard etc) to be sent to a licensed recycling or disposal facility.

This can be achieved by constructing a minimum of five trade waste compounds on-site. Each waste compound must be adequately sized to enclose the waste . Alternatively, mixed waste may be stored in one or more adequately sized waste compounds and sent to a waste contractor/waste facility that will sort the waste on their site for recycling. Waste must be adequately secured and contained within designated waste areas and must not leave the site onto neighbouring public or private properties. Personal waste must not litter the site. Copies of actual weighbridge receipts verifying recycling/disposal must be kept and presented to Council when required.

15. Surplus Excavated Material

The disposal / landfill of surplus excavated material, other than to a DECC licensed facility, is not permitted without formal approval from Council prior to the commencement of works. Any unauthorized disposal of waste, which includes excavated material, is a breach of the *Protection of the Environment Operations Act 1997* and subject to substantial penalties. Unless Council approves an alternate site, then all surplus excavated material must be disposed of at a licensed waste facility. Copies of actual weighbridge receipts verifying recycling/disposal must be kept and presented to Council when required.

16. Imported 'Waste Derived' Fill Material

The only waste derived fill material that may be received at the development site is:

- virgin excavated natural material (within the meaning of the *Protection of the Environment Operations Act 1997*); or
- any other waste-derived material the subject of a resource recovery exemption under clause 51A of the *Protection of the Environment Operations (Waste) Regulation 2005* that is permitted to be used as fill material.

Any waste-derived material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

NOTE: The application of waste-derived material to land is an activity that may require a licence under the *Protection of the Environment Operations Act 1997* (POEO Act). However, a licence is not required by the occupier of the land if the only material applied to land is virgin excavated natural material or waste-derived material that is the subject of a **resource recovery exemption** under clause 51A of the *Protection of the Environment Operations (Waste) Regulation 2005*.

Resource recovery exemptions are available on Department of Environment and Climate Change's website at: <http://www.environment.nsw.gov.au/waste/>

Definition of 'virgin excavated natural material' within the meaning of the POEO Act:

Natural material (such as clay, gravel, sand, soil or rock fines) that has been excavated or quarried from areas that are not contaminated with manufactured chemicals, or with process residues (as a result of industrial, commercial, mining or agricultural activities), and that does not contain any sulfidic ores or any other waste.

Definition of 'waste' within the meaning of the POEO (Waste) Regulation:

In relation to substances that are applied to land, the application to land by:

- (a) spraying, spreading or depositing on the land, or
 - (i) ploughing, injecting or mixing into the land, or
 - (ii) filling, raising, reclaiming or contouring the land,
- (b) in relation to substances that are used as fuel, all circumstances.

See Clause 3B of the Regulation for exemptions.

17. Garbage Collection

Collection of waste and recycling material, generated by the premises, must not cause nuisance or interference with the amenity of the surrounding area.

18. Odour Control

To ensure that adequate provision is made for the treatment of odours, the mechanical exhaust system shall be fitted with sufficient control equipment to prevent the emission of all offensive odours from the premises.

19. Waste Collection

Waste and recycling material, generated by the premises, must only be collected between the hours of 6am and 10pm except for Sundays and public holidays, where collection shall be between 8am and 10pm.

20. Waste Management

To ensure the adequate storage and collection of waste from the occupation or use of the premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area. Arrangement must be in place in all areas of the development for the separation of recyclable materials from general waste and for the movement of recyclable materials and general waste to the main waste/recycling storage room/area

The waste storage area must be:

- i). provided with a hose tap connected to the water supply;
- ii). paved with impervious floor materials;
- iii). graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (Sydney Water);
- iv). adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the Protection of the Environment Operations Act 1997;
- v). fitted with appropriate interventions to meet fire safety standards in accordance with the Building Code of Australia.

21. Medical & Contaminated Waste Storage and Disposal

A separate waste bin is to be provided for the disposal of clinical, contaminated and sharps waste. Clinical, contaminated and sharps waste must be collected and disposed of by an authorised contractor in accordance with the Protection of the Environment Operations (Waste) Regulation 2005. Dockets/receipts of hazardous waste disposal must be kept and presented to Council when required.

22. Asbestos Management Plan

An asbestos management plan shall be submitted to Council by a suitably qualified and licensed occupational hygienist, and include details of the asbestos site inspection, extent of the asbestos contamination and the safe work procedures to be implemented for the safe removal of the asbestos from the site and excavation works to be conducted.

23. Contamination

Any new information, which comes to light during construction works, which has the potential to alter previous conclusions about site contamination, shall be immediately notified to Council.

24. Asbestos Removal

Asbestos and asbestos containing material shall be removed by licensed asbestos removalist and all work must be in accordance with the requirements of the NSW Workcover Authority. Asbestos and asbestos containing material is to be disposed of in accordance with the requirements of the Department of Environment & Conservation and all dockets and paper work for the disposal shall be retained and made available to the Council if requested.

25. Contamination Assessment & Site Remediation

The conclusions and recommendations of the Additional Environmental Site Assessment prepared by EIS; Environmental Investigation Services, referenced as E24054Krpt2.doc, dated November 2010 and submitted as part of the Development Application are to be implemented as part of this approval.

26. Dust Control

The following measures must be taken to control the emission of dust:

- dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work;
- all dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the street or stormwater system;
- all stockpiles of materials that are likely to generate dust must be kept damp or covered.

27. Construction and Fit-out of Food Premises

To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all work involving construction or fitting out of the premises shall comply with the requirements of Australian Standard – Design, construction and fit-out of food premises AS 4674-2004 and the provisions of the Food Safety Standards Code (Australia).

Note: Copies of AS 4674-2004 may be obtained from Standards Australia Customer Service on telephone 1300 654 646 or by visiting the website: www.standards.com.au

Copies of the Food Safety Standards Code (Australia) may be obtained by contacting the Food Standards Australia New Zealand Authority on Telephone: (02) 6271-2222, e-mail: info@foodstandards.gov.au or by visiting the website: www.foodstandards.gov.au

28. Protection of Internal Noise Levels

An acoustic statement is required to be submitted prior to the issue of the Construction Certificate ensuring the following is achieved:

- a. The L_{10} (20 minute) internal noise level with windows and external façade doors closed shall not be greater than 40 dB(A).
- b. The L_{10} (20 minute) internal noise level, with windows and external façade doors normally open, shall be less than 50 dB(A)

The requirements of (b) may be equally satisfied by the alternative provision of either a mechanical or natural ventilation system or a special acoustic design solution as approved by Council.

29. Sound Level Output

The use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to “offensive noise” as defined under the provision of the Protection of the Environment Operation Act 1997. The sound level output shall not exceed 5 dB(A) above the ambient background level at the closest neighbour’s boundary.

30. Construction Noise

Upon receipt of a justified complaint in relation to noise pollution emanating from rock breaking as part of the excavation and construction processes, rock breaking will be restricted to between the hours of 9am to 3pm, Monday to Friday.

Details of noise mitigation measures and likely duration of the activity, will also be required to be submitted to Council seven (7) days of receiving notice from Council.

31. Noise to Surrounding Area

There shall be no amplified music or speakers external to the building.

32. Stockpiles

Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by water, to be stored clear of any drainage line, easement, natural watercourse, footpath, kerb or roadside.

33. Coving (Food Shop)

The intersection of floors with walls and exposed plinths in food preparation, storage and servery are to be coved. Coving is defined as a concave curve at the junction of two surfaces with the radius of the curve to be not less than 25mm.

34. Walls and Partitions (Food Shop)

All walls are to be solid construction. Solid construction is defined as brick, concrete blocks, structural fibrous cement or preformed panels that are filled with suitable material.

35. Hand Wash Basin (Food Shop)

Hand-wash Basins:

- a) Must be provided and must not be obstructed. Must be accessible at bench height and no further than 5 metres from any place where open food is handled or prepared; and
- b) Must be fitted with a tap that operates hands free with a permanent supply of warm running potable water delivered through a single outlet. A soap dispenser and paper towel holder shall be provided adjacent to the hand-wash basin.

36. Street Trees

Street trees and tree guards must be provided to Council's requirements. The location of street trees must compliment driveway locations. The species and size of all street trees must comply with Council's requirements. Street trees and tree guards can be provided by Council subject to payment of the applicable fee as per Council's Schedule of Fees and Charges.

37. Process for Council Endorsement of Legal Documentation

Where an encumbrance on the title of the property is required to be released or amended and Council is listed as the benefiting authority, the relevant release or amendment documentation must be submitted along with payment of the applicable fee as per Council's Schedule of Fees and Charges. This process includes the preparation of a report and the execution of the documents by Council. Sufficient time should be allowed before lodging a Subdivision Certificate application.

38. Protection of Public Infrastructure

Council must be notified of any damage to public infrastructure caused by the development. Adequate protection must be provided prior to work commencing and maintained during building operations. Any damage caused must be made good, to the satisfaction of Council, before an Occupation Certificate can be issued. Public infrastructure includes the road pavement, kerb and gutter, concrete footpaths, drainage structures, utilities and landscaping fronting the site.

39. Structures Adjacent to Piped Drainage Easements

Buildings and structures, including footings and brick fences, adjacent to existing or proposed drainage easements must be located wholly outside the easement. A design must be provided by a structural engineer certifying that the structure will not impart a load on the pipe in the easement.

40. Council Drainage Easements & Proposed Encroachment

No works are generally permitted within existing or proposed public drainage easements unless approved by Council. The proposed vehicular access, carpark and associated structures encroaching over the proposed drainage easement require a registration of Legal Agreement (Deed) between the proprietor of the land (Lot 2 DP 136093, 442 Windsor Road) and the Council.

The completion and registration of the Legal Agreement acceptable to and in favour of Council preserving Council's right of access to the easement and maintenance over the constructed structures by the registered proprietor, under Section 88E of the Conveyancing Act, 1919 or recorded on the title as a Positive Covenant, prior to issue of an Occupation Certificate.

The wording of the deed of agreement must be to the satisfaction of Council's Corporate Lawyer.

NOTE: Where Council is listed as the benefiting authority, the deed shall be submitted to Council for checking along with payment of the applicable fee from Council's Schedule of Fees and Charges. This process includes the preparation of a report and the execution of the documents by Council, sufficient time should be allowed.

41. Vehicular Access and Parking

The formation, surfacing and drainage of all driveways, parking modules, circulation roadways and ramps is required, with their design and construction complying with:

- a) AS/ NZS 2890.1:2004
- b) AS/ NZS 2890.6:2009
- c) AS 2890.2:2002
- d) DCP Part D Section 1 – Parking
- e) Council's Driveway Specifications

Where conflict exists the Australian Standard must be used.

The following must be provided:

- i. All driveways and car parking areas must be prominently and permanently line marked, signposted and maintained to ensure entry and exit is in a forward direction at all times and that parking and traffic circulation is appropriately controlled.
- ii. All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- iii. In urban areas, all driveways and car parking areas must be concrete or bitumen. The pavement design must consider the largest design service vehicle expected to enter the site.
- iv. In rural areas, all driveways and car parking areas must provide for a formed all weather finish.
- v. All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

42. Gutter and Footpath Crossing Application

Each driveway requires the lodgement of a separate gutter and footpath crossing application, accompanied by the current fee as prescribed by Council's Schedule of Fees and Charges.

43. Engineering Works – Design and Construction Approval Process

The design certification and construction approval of the engineering works nominated in this consent require separate approval prior to the commencement of any works.

Works on existing public roads or any other land under the care and control of Council require an Engineering Construction Certificate (ECC) in accordance with the Roads Act 1993 or the Local Government Act 1993. This includes the construction of new roads which are to be dedicated as public road. An ECC can only be issued by Council.

All other engineering works must be approved by either Council or an accredited certifier. This certification must be included with the documentation approved as part of any Construction Certificate. The designer of the engineering works must be qualified, experienced and have speciality knowledge in the relevant field of work.

For Council to issue an ECC the following must be provided:

- a) A completed application form.
- b) Four copies of the design plans and specifications.
- c) Payment of the applicable application and inspection fees.
- d) Payment of any required security bonds.

44. Minor Engineering Works

The design and construction of the engineering works listed below must be provided for in accordance with the following documents and requirements:

- a) Council's Design Guidelines Subdivisions/ Developments
- b) Council's Works Specifications Subdivisions/ Developments

Any variance from these documents requires separate approval from Council.

Works on existing public roads or any other land under the care and control of Council must be approved and inspected by Council in accordance with the Roads Act 1993 or the Local Government Act 1993.

i. Driveway Requirements

The design, finish, gradient and location of all driveway crossings must comply with the above documents and Council's driveway specifications which can be found on Council's website: <http://www.thehills.nsw.gov.au/>

The proposed driveways must be built to Council's heavy duty standard.

The driveway must be a minimum of 6m wide for the first 6m into the site, measured from the boundary. On high level sites a grated drain must be provided on the driveway at the property boundary.

A separate driveway application fee is payable as per Council's Schedule of Fees and Charges.

45. Supervision of Works

All work in the road / public reserve or to be dedicated as part of the development must be supervised by a suitably qualified and experienced person. The supervisors name, address and contact phone number must be submitted to Council prior to works commencing in the road reserve. A construction programme and anticipated duration of works must be submitted to Council prior to works commencing in the road reserve.

46. Public Liability Insurance

All contractors working in the road reserve must have a current public liability insurance policy with an indemnity limit of not less than \$10,000,000.00. A copy of this insurance must be submitted to Council prior to works commencing in the road reserve.

47. Reuse of Existing Tree Hollows

The existing tree hollows are to be reused on site. Details from a fauna Ecologist are to be provided to Council on how the tree hollows are to be reused on-site to provide habitat for local fauna, preferably threatened fauna.

48. Installation of Nest Boxes

A minimum of 8 nest-boxes are to be installed once the trees planted on site are large enough to support the nest-boxes. They should range in design, so as to provide habitat for the range of threatened bats and owls which are known to occur in the locality. A qualified fauna ecologist is to select the various designs, and also determine appropriate location for installation, so as to maximise likelihood of habitation by target species. Details of the nest-box designs, installation locations selected for the target species, and installation methods, are to be provided to Council once determined by the fauna ecologist.

49. Monitoring and Reporting on Habitation of Nest-Boxes and Tree Hollows

Following installation of the nest-boxes, a qualified fauna ecologist is to monitor the installed nest-boxes and reused tree hollows, to determine what species are inhabiting them. A report is to be prepared and submitted to Council every 6 months, for a period of 2 years, reporting on the habitation of the nest-boxes and tree hollows.

50. Fauna Habitat

A licensed fauna ecologist is to be present on-site at the time of all tree removal and excavation works. They are to conduct an inspection of all tree hollows prior to tree removal and conduct a site inspection to ascertain likely fauna species present. Should any fauna species be observed, such as reptiles, mammals, birds etc, the fauna ecologist is to ensure that appropriate action is taken with regard to care and relocation of all species. The fauna ecologist is to submit a report to Council following their site inspection and any subsequent action taken relating to the development, detailing species found and action taken.

51. Fencing Details

Fencing for the proposed development is to consist of:

- 1.8m high black palisade fencing to the Windsor Road boundary.
- 1.8m high timber lapped and capped fencing to north, south and western side boundaries or as otherwise agreed by adjoining property owner(s).

52. Control of External Carpark Noise Signage

To minimise the noise impacts of the external carpark signs are to be provided and located in suitable highly visible positions including the entry and exits of the carpark. The signs are to be worded to remind patrons to be mindful of the residential neighbours and that, all care is to be taken to minimise noise.

53. Control of Noise from the External Carpark

The speed for traffic within the carpark shall be limited to not higher than 10 km/h. Any speed bumps provided to the carpark shall not be made of metal. Any drainage grates within trafficable areas of the carpark must be fitted to not move or make noise when driven over.

PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE

54. Notice of Requirements

The submission of documentary evidence to the Certifying Authority, including a Notice of Requirements, from Sydney Water Corporation confirming that satisfactory arrangements have been made for the provision of water and sewerage facilities.

Following an application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water / sewer extensions can be time consuming and may impact on other services and building, driveway and landscape design.

55. Landscape Bond

To ensure the public amenity of the streetscape a landscape bond in the amount of \$30,000.00 is to be lodged with Council prior to the issue of the Construction Certificate. It shall be refunded 6 months following the issue of the Final Occupation Certificate and the submission to Council of certification from a qualified Landscape Architect or Council's Tree Management Team, that the works have been carried out in accordance with the approved landscape plan.

56. Internal Pavement Structural Design Certification (Waste Services)

A Certified Practising Engineer (CPEng) must confirm the structural adequacy of the internal pavement design to Council prior to the issue of a Construction Certificate. The proposed pavement design must be adequate to withstand the loads imposed by a loaded waste vehicle (i.e. 28 tonne axle load) including any manoeuvring areas.

57. Resubmit Waste Management Plan

Prior to the issue of the Construction Certificate a Waste Management Plan in relation to the demolition and construction stages of the development must be resubmitted to and approved by Council. The Plan must nominate the recycling outlets chosen for disposal of surplus excavated material and green waste during the demolition stage of the development; and

- i. The type of waste materials;
- ii. The estimated volume (m3) or area (m2) of waste materials;
- iii. The proposed reuse or recycling methods;
- iv. Waste contractor information;
- v. Address of recycling outlet(s) and/or landfill site(s) in respect of waste disposal during the construction stage of the development.

The Western Sydney Recycling Directory is available to assist the applicant in selecting appropriate contractors and facilities. The Directory may be obtained from Council's website www.thehills.nsw.gov.au or by contacting Council's Waste Management Project Officer on 9762 1112.

58. Asbestos Inspection

An inspection is required to be carried out by a suitably qualified licensed occupational hygienist of the surface of the site for potential asbestos containing materials. This is required to be undertaken after the vegetation has been cleared. The results of the inspection shall be reported to Council within the Asbestos Management Plan for the site.

59. Section 94 Contribution

The following monetary contributions must be paid to Council in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979, to provide for the increased demand for public amenities and services resulting from the development.

Payments comprise of the following:-

Residential Aged Care Facility

Purpose	Per 1 bed	No. of 1 beds: 144	Total
Roads & Traffic - Capital	\$ 40.10	\$ 5,774.40	\$ 5,774.40
Total	\$ 40.10	\$ 5,774.40	\$ 5,774.40

The contributions above are applicable at the time this consent was issued. Please be aware that Section 94 contributions are updated quarterly.

Prior to payment of the above contributions, the applicant is advised to contact Council's Development Contributions Officer on 9843 0268. Payment must be made by cheque or credit/debit card. Cash payments will not be accepted.

This condition has been imposed in accordance with Contributions Plan No 7.

Council's Contributions Plans can be viewed at www.thehills.nsw.gov.au or a copy may be inspected or purchased at Council's Administration Centre.

60. Remedial Action Plan

Submit a Remedial Action Plan prepared by a suitably qualified Environmental Consultant to Council for endorsement. The Remedial Action Plan shall be prepared in accordance with the requirements set out in the Department of Environment and Climate Change Guidelines (DECCW), 'Guidelines for Consultant Reporting on Contaminated Sites' and shall include a site management plan and remedial strategies to carry out the following:

Remediation works for the section east of the creek shall include:

- Excavation of the fill material as "General Solid Waste (Containing Asbestos)";
- Off-site disposal of all excavated fill material as "General Solid Waste (containing asbestos)" to a waste facility licensed by the DECCW and lawfully able to accept the type of waste.
- Validation sampling of the fill material that will remain on-site. If the fill material validation is successful, the fill material that fails will need to be excavated and additional validation undertaken; and
- Additional sampling of the underlying natural sandstone/soil if excavation of the sandstone/soil is required to achieve the proposed site levels. Additional sampling will be required to assign a Virgin Excavated Natural Material (VENM) to the material or demonstrate that the material can be re-used on-site.

Remediation works for the section west of the creek shall include:

- Disposal of all stockpiles from site as "General Solid Waste (containing asbestos)" to a waste facility licensed by the DECCW and lawfully able to accept the type of waste.
- An asbestos inspection of the surface of the site, after the vegetation has been cleared. If potential asbestos containing materials are identified, the remedial action plan shall detail the areas that are to be excavated and validated.

61. Construction and Fit Out Details Food Areas

Details shall be submitted on the proposed construction and fit out of all food preparation, food servery/pantry areas and the café. Detailed floor plan layouts, sections and elevations shall be provided showing proposed equipment and construction material finishes.

The food preparation, food servery/pantry areas and the café shall be designed and constructed in accordance with Australian Standard AS4674-2004 'Construction and Fitout of Food Premises', the Australia New Zealand Food Safety Standards Code, Chapter 3, and the Food Act 2003 and Food Regulation 2010.

62. Mechanical Plant Noise Emissions and Impact

Prior to the issue of a construction certificate, a report shall be submitted to Council detailing the selected mechanical plant and their associated noise levels. The report shall discuss the predicted cumulative noise impact of the mechanical plant and other predicted noise sources in respect to the established noise criteria from the Department of Environment, Climate Change and Water's Industrial Noise Policy and other relevant guidelines documents. Where non-compliances with the nominated criteria are expected, recommendations for noise mitigation shall be made.

63. Landscaping Plan to be Submitted

An updated landscaping plan to reflect the civil drawing submitted with the Development Application is to be submitted to Council's Manager Development Assessment prior to the issue of a Construction Certificate.

64. Concept Engineering Design Approval

The submitted concept engineering design plans are for DA purposes only and must not be used for construction. A detailed design must be submitted to Council for approval before a Construction Certificate is issued. Council may require amendments to the concept design.

65. Engineering Works and Design (Council Approval Required)

The design and construction of the engineering works outlined below must be provided for in accordance with the following documents and requirements:

- a) Council's Design Guidelines Subdivisions/ Developments
- b) Council's Works Specifications Subdivisions/ Developments

Any variance from these documents requires separate approval from Council.

The works listed below require an Engineering Construction Certificate (ECC) as outlined earlier in this consent. The following engineering works are required:

i. Road and Drainage Works – Windsor Road frontage

Submission of a set of construction plans endorsed by the RTA for the road and associated drainage works along Windsor Road.

ii. Works on Adjoining land

Where the engineering works included in the scope of this approval extend into adjoining land, written consent from all affected adjoining property owners must be obtained and submitted to Council before a Construction Certificate is issued.

iii. Full Width Road Construction

The full width construction of proposed **Cottell Way** (extension) including footpath paving and other ancillary work to make this construction effective.

Proposed roads must be constructed to the following requirements:

Road Name	Formation (Footpath/ Carriageway/ Footpath) (m)	Traffic Loading N(ESA)
Cottell Way (extension)	Road Type: Access Road Road width - 6.5m (minimum) and variable Footpath width - 3.5m and variable. Note: The location, layout and the width of proposed road shall be in accordance with the Site Works and Stormwater Plan (Job No. 091839 – C02 (Revision H) dated 19/04/2011.	5×10^5

Notes:

- 1. The design must incorporate a standard kerb return radius of 7.5m based on a 4m splay corner unless otherwise directed by Council.
- 2. Construction engineered retaining walls, along the southern and western side of the road reserve designed to Council's requirements (no stacked rocks or other alternatives will be permitted). Submission of design and construction details representing the scope of works to be provided to Council.
- 3. Provision of native plantings to minimize maintenance requirement between the retaining wall and footpath in the area at the south western side of the site. Details of the proposed trees, size and location are to be provided for Council's approval.

iv. Concrete Footpath Paving

Provision of a 1.5m wide concrete footpath, including access ramps at all intersections, on both sides of the proposed Cottell Way, transitioning into the existing footpath paving on the adjoining properties.

Provision of 1.5m wide concrete footpath and kerb and gutter along Windsor Road transitioning into the existing footpath paving on the adjoining properties.

v. Footpath Verge Formation

The grading, trimming, topsoiling and turfing of the footpath verge along Cottell Way and Windsor Road fronting the development site is required to ensure a gradient between 2% and 4% falling from the boundary to the top of kerb is provided. This work must include the construction of any retaining walls necessary to ensure complying grades within the footpath verge area. All retaining walls and associated footings must be contained wholly within the subject site. Any necessary adjustment or relocation of services is also required, to the requirements of the relevant service authority. All service pits and lids must match the finished surface level.

vi. Street Names Signs

Street name signs and posts are required, as approved by Council.

vii. Service Conduits

Service conduits to the proposed new development, laid in strict accordance with the relevant service authority's requirements, are required. Services must be shown on the engineering drawings.

viii. Stormwater Management

In order to ensure the proposed development does not have adverse impact on the existing flood behaviour and provision of adequate flood protection measures to the development based on best engineering practices on river management and floodplain risk management principles and infrastructure assets, detailed design and construction drawings shall include:

Waterway Design & Construction

a) Submission of detailed construction details and representative long section and cross sections prepared in accordance with the 'Siteworks and Stormwater Plan' (drawing 091839 C02 – Revision H) dated 19/04/2011, the Civil Design Report (091839P) dated April 2011 both prepared by Taylor Thomson Whitting Consulting Engineers, and the Flood Study Report dated February 2011, prepared by Bewsher Consulting Pty Ltd. The details shall ensure:

- Substantial compliance in terms of the layout, location, size, design levels etc. of the drainage structures and the channel. Any variation to this will require confirmation of design compliance to be supported by a revised flood modeling to ensure no flood impact on the locality including the development and the adjoining properties.
- Substantial compliance with finished surface treatment and the landscape works in accordance with the flood modelling.
- Construction of engineered walls to Council's requirements in place of rock walls proposed within the floodway in the concept civil drawings.
- A suitable maintenance access to Council's drainage infrastructure.
- Grading the site to capture all flows from the upstream towards the channel, also in the vicinity of Windsor Road.
- Flow through type boundary fencing to avoid impedance to the flow entering the channel from Windsor Road.
- Adequate measures to minimize scour protection at the bends in the vicinity of proposed pits 7 and 6, at the drop structures between the pits 9-8 and 5-4.
- Smooth and underground transitions between upsized and downsized drainage structures.
- Appropriate stormwater connection from Windsor Road drainage to the pipeline within waterway.

- Installation of appropriate flood warning signs in the vicinity of waterway.
- A copy of RTA endorsed plan confirming the works proposed within the RTA easement complies with RTA design requirements.

Maintenance Plan

- b) A maintenance plan for the Floodway to ensure the completion and ongoing maintenance of the floodway. This is to be inclusive of the entire floodway to the extent of 1 in 100 year ARI flood inundation and in-stream zones of the waterway.

Flood Planning Level

- c) Construction details accompanied by a Certification from the accredited hydraulic engineer to ensure that the development is adequately protected to the Flood Planning Level, i.e 0.5m above the 1 in 100 year flood level. This includes height of retaining walls building design levels etc. Respective flood levels referenced from Figure 3 of the Flood Study is to be plotted on the civil drawings.

Scour protection.

- d) Erosion protection works are to be provided at all discharge points into the waterway and are to be designed and constructed, as a minimum, in accordance with the 'Managing Urban Stormwater – Soils and Construction, 4th Edition 2004 published by the NSW Government' and other design methodology approved by Council

Structural Assessment and Certification

- e) Submission of Structural Certification issued by a suitably accredited structural engineer, confirming the design compliance of the proposed structures along the waterway against the necessary design requirements and Australian standards.

NOTE: Detailed hydraulic modelling, landscape waterway design, any other construction design and maintenance requirements required as part of the development is to be undertaken by appropriately qualified engineers, scientists etc.

Drainage Pit 1 and Amendment to Easement

- f) Construction details of the pit 1 shall indicate the site boundary, the existing easement etc. The existing easement width is to be amended/ extended to reflect the pit design unless it is demonstrated that the extent of proposed works including footings is contained wholly within the easement registered on the property title SP 74096.

66. Onsite Stormwater Detention – Upper Parramatta River Catchment Area

Onsite Stormwater Detention (OSD) is required in accordance with Council's adopted policy for the Upper Parramatta River catchment area, the Upper Parramatta River Catchment Trust OSD Handbook.

The stormwater concept plan prepared by Taylor Thomson Whitting Consulting Engineers Drawing 091839 C02 Revision H dated 19/04/2011 is for DA purposes only and is not to be used for construction. The detailed design must be prepared in accordance UPRCT design requirements, and to reflect the approved concept plan.

Comprehensive design plans showing full construction details must be prepared by an accredited OSD designer and submitted with:

- A completed OSD Drainage Design Summary Sheet;
- Drainage calculations and details, including those for all weirs, overland flow paths and diversion (catch) drains, catchment areas, times of concentration and estimated peak run-off volumes;
- A completed OSD Detailed Design Checklist;
- A maintenance schedule.

The design and construction of the OSD system must be approved by either Council or an accredited certifier. This certification must be included with the documentation approved as part of any Construction Certificate.

A Design Compliance Certificate (DCC) certifying the detailed design of the OSD system can be issued by Council subject to the following being provided:

- i. A completed application form;
- ii. Four copies of the design plans and specifications;
- iii. Payment of the applicable application and inspection fees.

67. Works in Existing Easement

All adjoining properties either benefited or burdened by the existing easement must be notified of the proposed works within the easement in writing, including commencement and completion dates, before a Construction Certificate is issued.

68. Draft Legal Documents

Where an encumbrance on title is required to be created as part of this consent, draft copies of all legal documents must be submitted to Council for checking before a Construction Certificate is issued.

69. Security Bond – Pavement and Public Asset Protection

In accordance with Section 80A(6)(a) of the Environmental Planning and Assessment Act 1979, a security bond of 19,500.00 is required to be submitted to Council to guarantee the protection of the adjacent road pavement and public assets during construction works. The above amount is calculated at the rate of \$30.00 per square metre based on the public road frontage of the site, 50m on either side Cottell Way and the width of the road measured from face of kerb on both sides, or \$10,000.00, whichever is the greater.

The bond must be lodged with Council prior to the issue of a Construction Certificate.

The value of this bond shall be confirmed with Council prior to submission and may be in the form of cash or an unconditional bank guarantee. The bond is refundable upon written application to Council along with payment of the applicable bond release fee, and is subject to all work being restored to Council's satisfaction. Should the cost of restoring any damage exceed the value of the bond, Council will undertake the works and issue an invoice for the recovery of these remaining costs.

70. Security Bond – External Works

In accordance with Section 80A(6)(b) of the Environmental Planning and Assessment Act 1979, a security bond is required to be submitted to Council to guarantee the construction, completion and performance of all works external to the site. The bonded amount must be based on 150% of the tendered value of providing all such works, or \$10,000.00, whichever is the greater.

The bond must be lodged with Council prior to the issue of any Construction Certificate.

The value of this bond shall be confirmed with Council prior to submission and may be in the form of cash or an unconditional bank guarantee. The bond is refundable upon written application to Council along with payment of the applicable bond release fee, and is subject to all work being completed to Council's satisfaction.

71. Bank Guarantee Requirements (Development)

Should a bank guarantee be the proposed method of submitting a security bond it must:

- a) Have no expiry date;
- b) Be forwarded direct from the issuing bank with a cover letter that refers to Development Consent DA 220/2011/JP;
- c) Specifically reference the items and amounts being guaranteed. If a single bank guarantee is submitted for multiple items it must be itemised.

Should it become necessary for Council to uplift the bank guarantee, notice in writing will be forwarded to the applicant fourteen days prior to such action being taken. No bank guarantee will be accepted that has been issued directly by the applicant.

72. Collection of Seed

Seed is to be collected from the existing *Eucalyptus saligna* (Sydney Blue Gums) and *Angophora floribunda* (Rough-barked Apple) that occur on the site, for propagation and replanting in the 'Blue Gum High Forest' revegetation area on site. Note their flowering season is January-April for *E. saligna*, and December-February for *A. floribunda*. Council is to be advised once this seed has been collected and details are to be provided on the propagation method.

73. Acoustic Consultant – Traffic Noise

An acoustic consultant shall be engaged to certify that the development complies with the EPA's – Environmental criteria for road traffic noise, and NSW Industrial Noise Policy in relation to the movement of vehicles in the car park and loading dock, and the impact on adjoining properties of vehicles associated with the development. A copy of this certification shall be submitted to Council prior to the issue of a Construction Certificate.

PRIOR TO WORK COMMENCING ON THE SITE

74. Council as Principal Certifying Authority

A sign is to be erected displaying the following information;-

Principal Certifying Authority
The Hills Shire Council
P.O. Box 75
CASTLE HILL NSW 1765
Ph 9843 0555

The name of the person in charge of the work, a contact phone number outside of work hours and a statement that unauthorised entry to the work site is prohibited. Such sign be maintained while the building work is carried out and removed on completion.

75. Principal Certifying Authority

A sign is to be erected in accordance with Clause 98 A (2) of the Environmental Planning and Assessment Regulations 2000.

76. Management of Building Sites – Builder's Details

The erection of suitable fencing or other measures to restrict public access to the site and building works, materials or equipment when the building work is not in progress or the site is otherwise unoccupied.

The erection of a sign, in a prominent position, stating that unauthorised entry to the site is not permitted and giving an after hours contact name and telephone number. In the case of a privately certified development, the name and contact number of the Principal Certifying Authority.

77. Consultation with Service Authorities

Applicants are advised to consult with Telstra and Australia Post regarding the installation of telephone conduits and letterboxes respectively.

Unimpeded access must be available to the electricity supply authority, during and after building, to the electricity meters and metering equipment.

The building plans must be submitted to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the building plans will be stamped indicating that no further requirements are necessary.

78. Stabilised Access Point

A stabilised all weather access point is to be provided prior to commencement of site works, and maintained throughout construction activities until the site is stabilised. The controls shall be in accordance with the requirements with the details approved by Council and/or as directed by Council Officers. These requirements shall be in accordance with Managing Urban Stormwater – Soils and Construction produced by the NSW Department of Housing (Blue Book).

79. Builder and PCA Details Required

Notification in writing of the builder's name, address, telephone and fax numbers to be submitted to the Principal Certifying Authority prior to work commencing.

Two days before work commences, Council shall be notified of the Principal Certifying Authority in accordance with the Regulations.

80. Protection of Existing Trees

The trees that are to be retained (located within adjoining properties) are to be protected during all works with 1.8m high chainwire fencing which is to be erected at least three (3) metres from the base of each tree and is to be in place prior to works commencing to restrict the following occurring:

- Stockpiling of materials within the root protection zone,
- Placement of fill within the root protection zone,
- Parking of vehicles within the root protection zone,
- Compaction of soil within the root protection zone.

All areas within the root protection zone are to be mulched with composted leaf mulch to a depth of not less than 100mm.

The installation of services within the root protection zone is not to be undertaken without consultation with Council's Tree Management Officer.

Additional protection measures as detailed in Arboricultural Assessment and Development Impact Report prepared by Urban Forestry Australia and dated July 2010.

81. Approved Temporary Closet

An approved temporary closet connected to the sewers of Sydney Water, or alternatively an approved chemical closet is to be provided on the land, prior to building operations being commenced.

82. Validation Report

A Validation report shall be submitted to Council, prepared by a suitably qualified Environmental Consultant. The report shall be in accordance with the NSW DECCW (formerly the EPA) '*Contaminated Sites Sampling Design Guidelines*'.

The Validation report shall conclude whether the objectives of the Remedial Action Plan have been achieved, and shall present the results of the post remediation soil sampling against the clean-up criteria stated in the Remedial Action Plan demonstrating site validation.

Documentary evidence is needed to confirm that any disposal of soil off-site, was deposited to a DECCW licensed waste facility lawfully able to accept asbestos containing materials.

83. Notification of Asbestos Removal

Prior to the commencement of any demolition works involving asbestos or asbestos containing materials, all adjoining and adjacent neighbours and Council must be given a minimum five days written notification of the works.

84. Site Water Management Plan

A Site Water Management Plan is to be submitted to Council for approval. The plan is required to be site specific and be in accordance with "Managing Urban Stormwater - Soils and Construction" (The Blue Book) produced by the NSW Department of Housing.

85. Habitat Tree Removal

Prior to any trees being felled, a qualified fauna Ecologist is to conduct a survey to check for any nesting or roosting fauna and relocate to suitable, nearby habitat. Removal of trees is to occur progressively. Tree hollows in the trees to be removed, are to be retained for reuse on-site (see General Matters).

86. Erosion & Sediment Control Plan Kept on Site

A copy of the Erosion and Sediment Control Plan must be kept on site at all times during construction and made available to Council officers on request.

87. Erosion and Sedimentation Controls – Major Works

Erosion and sedimentation control devices are to be provided in accordance with Council's "Works Specification - Subdivisions/Developments" (August 1997). All devices are to be established prior to the commencement of engineering works and maintained for a minimum period of six (6) months after the completion of all works. Periodic maintenance of the erosion and sedimentation control devices is to be undertaken to ensure their effectiveness.

On completion of works all land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.

88. Traffic Control Plan

A Traffic Control Plan is required to be prepared in strict compliance with the requirements of AS 1742.3 and the current RTA Traffic Control and Work Sites Manual and submitted to Council for approval. The person preparing the plan must have the relevant RTA accreditation to do so. Where amendments to the approved plan are required, they must be submitted to Council for approval prior to being implemented.

89. RTA Design Approval

Prior to any works commencing, the design and construction of the works in Windsor Road must be approved by the NSW Roads and Traffic Authority. Four copies of the RTA stamped approved construction plans and a covering letter from the RTA advising that suitable arrangements have been made to enable the commencement of works must be submitted to Council.

90. Pre-Construction Adjoining Property Dilapidation Report

A dilapidation report must be prepared and submitted by a structural engineer recording the condition of any dwelling or ancillary structures on adjoining properties within the likely zone of influence from any excavation, dewatering or construction induced vibration.

91. Pre-Construction Public Infrastructure Dilapidation Report

A public infrastructure inventory report must be prepared and submitted to Council recording the condition of all public assets in the direct vicinity of the development site. The report shall include:

- a) Designated construction access and delivery routes; and
- b) Photographic evidence of the condition of all public assets. The report shall clearly identify the date of recording.

DURING CONSTRUCTION

92. Hours of Work

Work on the project to be limited to the following hours: -

Monday to Saturday - 7.00am to 5.00pm;

No work to be carried out on Sunday or Public Holidays.

The builder/contractor shall be responsible to instruct and control sub-contractors regarding the hours of work. Council will exercise its powers under the Protection of the Environment Operations Act, in the event that the building operations cause noise to emanate from the property on Sunday or Public Holidays or otherwise than between the hours detailed above.

93. Survey Report

Survey Certificate to be submitted to the Principal Certifying Authority at footings and/or formwork stage. The certificate shall indicate the location of the building in relation to all boundaries, and shall confirm the floor level prior to any work proceeding on the building.

94. Compliance with Critical Stage Inspections and Other Inspections Nominated by the Principal Certifying Authority

Section 109E(d) of the Act requires certain specific inspections (prescribed by Clause 162A of the Regulations) and known as "Critical Stage Inspections" to be carried out for building work. Prior to permitting commencement of the work, your Principal Certifying Authority is required to give notice of these inspections pursuant to Clause 103A of the Regulations.

N.B. An Occupation Certificate cannot be issued and the building may not be able to be used or occupied where any mandatory critical stage inspections or other inspections required by the Principal Certifying Authority are not carried out.

Where Council is nominated as Principal Certifying Authority, notification of all inspections required is provided with the Construction Certificate approval.

NOTE: You are advised that inspections may only be carried out by the PCA unless by prior agreement of the PCA and subject to that person being an accredited certifier.

95. Stormwater Management

All existing stormwater pits to the site will be covered with geofabric sediment fencing to prevent sediment runoff into the stormwater system. To prevent sediment contamination the filters will be regularly inspected and replaced during the duration of the works.

96. Standard of Works

All work must be completed in accordance with this consent and Council's Works Specification Subdivisions/ Developments and must include any necessary works required to make the construction effective. All works and public utility relocation must incur no cost to Council.

97. Engineering Construction Inspections

Construction inspections are required for the engineering works included in this consent at the completion of the following inspection stages:

- a) Prior to commencement of work;
- b) Traffic control to AS 1742-3;
- c) Bedding of pipes in trenches;
- d) Trench backfill within roads;
- e) Formwork for concrete structures;
- f) Sub-grade proof roller test;
- g) Proof roller test for kerb;
- h) Sub-base course proof roller test;
- i) Base course proof roller test;
- j) Prior to placing of fill;
- k) Road crossing;
- l) Final inspection; and
- m) Asphaltic concrete surfacing.

The inspection of works approved by Council can only be carried out by Council. An initial site inspection is required prior to commencement of works. 24 hours notice must be given for all inspections.

PRIOR TO ISSUE OF A OCCUPATION CERTIFICATE

98. Landscaping Prior to Issue of Occupation Certificate

The landscaping of the site being carried out prior to issue of the Occupation Certificate (within each stage if applicable) in accordance with the approved plan. All landscaping is to be maintained at all times in accordance with BHDCP Part D, Section 3 – Landscaping.

99. Inspection of Bin Storage Area(s)

Inspection of the bin storage area(s) is to be undertaken by Council's Waste Management Project Officer to ensure compliance with Council's design specifications.

100. Occupational Hygienist Report for Asbestos Removal

On completion of the asbestos removal works an Occupational Hygienist shall provide an asbestos clearance for the works.

101. Food Shop Registration requirements

Occupation of the premises shall not occur until:

- a) A registration application has been submitted to Council's Health and Environmental Protection for the Food Shop, and
- b) Notification to the NSW Food Authority under Food Safety Standard 3.2.2 Division 2 Section 4 Notification. This requirement is to be met by notifying through the following website: www.foodnotify.nsw.gov.au

Evidence of compliance of the above shall be submitted to Council prior to commencement of business.

102. Final Inspection

Prior to the issuing of an Occupation Certificate, the food premises shall be inspected by an authorised officer of Council under the Food Act 2003, to determine compliance with the Food Act 2003, Food Safety Standards and Australian Standard 4674:2004: Design Construction and Fit-out of Food Premises.

103. Completion of Engineering Works

An Occupation Certificate must not be issued prior to the completion of all engineering works covered by this consent, in accordance with this consent.

104. Works as Executed Plans

Works as Executed (WAE) plans prepared by a suitably qualified engineer or registered surveyor must be submitted to Council when the engineering works are complete. The WAE plans must be prepared in accordance with Council's Design Guidelines Subdivisions/ Developments on a copy of the approved engineering plans. An electronic copy of the WAE plans, in ".dwg" format, must also be submitted.

Where applicable, the plans must be accompanied by pavement density results, pavement certification, concrete core test results and site fill results.

105. Flooding Extent Plan

A plan of survey prepared by a registered surveyor must be provided that shows the Probable Maximum Flood (PMF) and 1 in 100 year ARI storm event flood levels associated with the adjacent drainage system. The plan must reflect the design intent of the approved construction plans and subsequent WAE plans, and clearly indicate the extent of inundation for the above storm events.

Note: Any variation to the approved construction details may require revised flood modelling and certification to ensure no adverse flood impact on the locality including the development and the adjoining properties.

106. Floodwater Certification

Structural certification from a suitably accredited structural engineer indicating that all structures associated with the development and in the vicinity of waterway have been designed and constructed to withstand inundation, debris and buoyancy forces of floodwater through the site for all storms as required under this consent.

107. Performance/ Maintenance Security Bond

A performance/ maintenance bond of 5% of the total cost of the engineering works is required to be submitted to Council. The bond will be held for a minimum defect liability period of one year and may be extended to allow for the completion of necessary maintenance or in the case of outstanding works. The minimum bond amount is \$5,000.00. The bond is refundable upon written application to Council along with payment of the applicable bond release fee, and is subject to a final inspection.

108. Compliance with NSW Roads and Traffic Authority Requirements

A letter from the NSW Roads and Traffic Authority must be submitted confirming that all works along Windsor Road have been completed in accordance with their requirements and that they have no objection to the issuing of an Occupation Certificate.

109. Post Construction Public Infrastructure Dilapidation Report

Before an Occupation Certificate is issued, an updated public infrastructure inventory report must be prepared and submitted to Council. The updated report must identify any damage to public assets in the direct vicinity of the development site and the means of rectification for the approval of Council.

110. Post Construction Adjoining Property Dilapidation Report

Before a Subdivision Certificate is issued, an updated dilapidation report must be prepared and submitted for the properties nominated earlier in this consent.

111. Dedication of Public Road

An Occupation Certificate must not be issued until the constructed **Cottell Way** has been dedicated as public road at no cost to Council. In order to facilitate the dedication the road, the applicant must apply to Council for a subdivision Certificate.

Note: All outstanding fees must be paid before a Subdivision Certificate can be issued. The final fees that remain outstanding will be assessed following the submission of written advice confirming all works have been completed.

112. Registration of Legal Agreements

The registration of legal agreements required under this consent such as a deed for encroachment over the proposed drainage easement, an amendment to the existing drainage easement (if necessary) in accordance with the completed engineering works etc. to be registered on the property titles prior to issue of an Occupation Certificate.

113. OSD System Certification

The Onsite Stormwater Detention (OSD) system must be completed to the satisfaction of the Principal Certifying Authority (PCA) prior to the issuing of an Occupation Certificate. The following documentation is required to be submitted upon completion of the OSD system and prior to a final inspection:

- a) Works as executed plans prepared on a copy of the approved plans;
- b) A certificate from a suitably accredited engineer or surveyor verifying that the constructed OSD system will function hydraulically;
- c) A certificate of structural adequacy from a suitably accredited structural engineer verifying that the structures associated with the constructed OSD system are structurally adequate and capable of withstanding all loads likely to be imposed on them during their lifetime.

Where Council is not the PCA a copy of the above documentation must be submitted to Council.

114. Stormwater CCTV Recording

All piped stormwater drainage systems and ancillary structures which will become Council assets must be inspected by a CCTV and a report prepared. A hard copy of the report must be submitted along with a copy of the CCTV inspection on either VHS or DVD (in WMA format).

115. Public Asset Creation Summary, Certification & Maintenance Schedule

A completed public asset creation summary form, a maintenance schedule prepared for the structures within the waterway and a certificate of structural adequacy prepared by a suitably qualified and practicing structural engineer certifying that all the structures associated with the waterway have been built in accordance with the approved design must be submitted to Council with the WAE plans. (A blank form can be found on Council's website.)

116. Creation and Registration of Restrictions and Positive Covenants

a) Creation of Restrictions and Positive Covenants

The submission to Council of all necessary documentation together with payment of the endorsement fee prescribed in Council's Schedule of Fees and Charges to create the following over the title of the property. The wording must nominate The Hills Shire Council as the authority to release, vary or modify each restriction or positive covenant.

i. Drainage Easement – Council

Suitable drainage easements must be created over all stormwater drainage pipelines and structures which convey public stormwater runoff, in accordance with the requirements of Council. Easements are only required for stormwater drainage pipelines and structures that are not located within a public road or drainage reserve. Easement widths must comply with Council's Design Guidelines Subdivisions/ Developments.

ii. Restricting Development – Waterway Modification

A restriction as to user restricting development over or the varying of any finished levels of the constructed waterway, and any structures built in association with the waterway.

The waterway is defined as the extent of a minimum of 1 in 100 year ARI flood inundation area.

iii. Positive Covenant – Waterway Maintenance

A positive covenant must be created to ensure the ongoing maintenance of the constructed structures and landscape associated with the waterway.

iv. Easement – Maintenance Access

Suitable easement must be created over the designated maintenance access as required under this consent.

v. Restricting Development – OSD Modification

A restriction as to user restricting development over or the varying of any finished levels and layout of the constructed onsite stormwater detention system.

vi. Positive Covenant – OSD Maintenance

A positive covenant must be created to ensure the ongoing maintenance of the constructed onsite stormwater detention system.

vii. Restriction - Occupation

A restriction as to the user restricting the use or occupation of the premises for older people with a disability as per the definition of such included in SEPP Housing for Seniors or People with a Disability 2004.

b) Registration of Request Documents

The request documents endorsed by Council must be registered and a copy of the registered documents submitted to Council before an Occupation Certificate is issued.

117. Section 73 Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Development and Plumbing section of the web site www.sydneywater.com.au and then refer to Water Servicing Co-ordinator under "Developing Your Land" or telephone 13 20 92 for assistance.

118. Provision of Electricity Services

Submission of a compliance certificate from the relevant provider confirming satisfactory arrangements have been made for the provision of electricity services (including undergrounding of services where appropriate).

119. Provision of Telecommunications Services

The submission of a compliance certificate from the relevant telecommunications provider, authorised under the Telecommunications Act confirming satisfactory arrangements have been made for the provision of, or relocation of, telecommunication services including telecommunications cables and associated infrastructure. This includes undergrounding of aerial telecommunications lines and cables where required by the relevant telecommunications carrier.

120. Access and Useability

Prior to the issue of the Occupation Certificate, a report prepared by an Independent Assessor shall be submitted to Council or the Certifying Authority demonstrating the developments compliance with the provisions of relevant provisions of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 on development standards concerning access and useability.

THE USE OF THE SITE

121. Waste Storage and Collection

To ensure the adequate storage and collection of waste from the occupation or use of the premises, all garbage and recyclables emanating from the premises must be stored in the designated waste storage area. Arrangement must be in place in all areas of the development for the separation of recyclable materials from general waste.

122. Lighting

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the *Australian Standard AS 4282:1997 The Control of Obtrusive Effects of Outdoor Lighting*.

123. Compliance with Health Care Legislation

The proprietor is to ensure that operation of the Premises complies with the following documents:

- a) Medical Practice Act 1992.
- b) Medical Practice Regulation 1998
- c) Dentists Act 1989
- d) Dentists (General) Regulation 1996
- e) Physiotherapists Amendment (Infection Control) Regulation 2004

124. Hours of operation of the loading dock

Delivery of goods shall be restricted to the following times;

Monday to Saturday – 7.00am to 8.00pm

Sunday and public holidays – 8.00am – 8.00pm

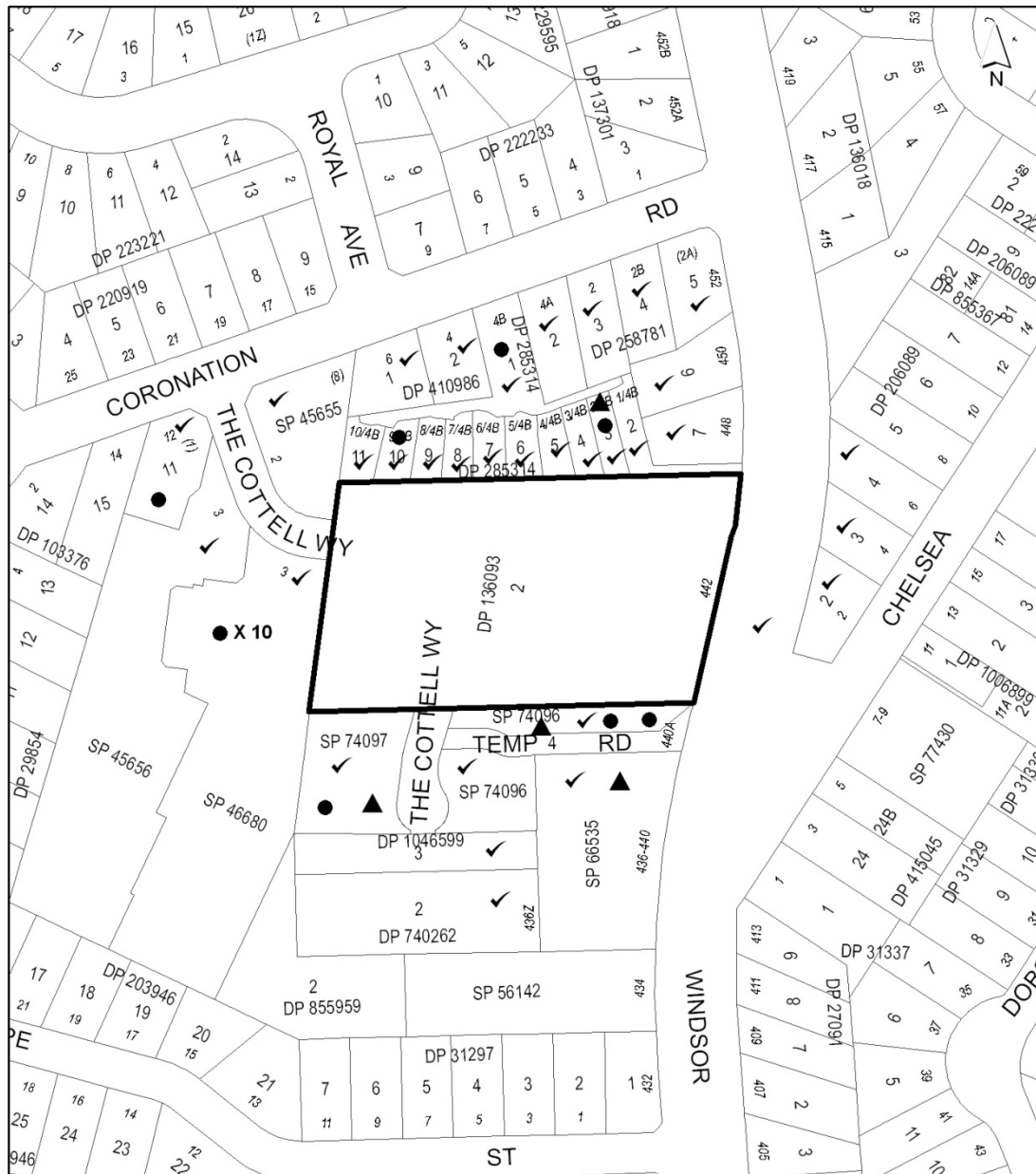
125. Offensive Noise - Acoustic Report

The proposed use of the premises and/or machinery equipment installed must not create offensive noise so as to interfere with the amenity of the neighbouring properties. Should an offensive noise complaint be received and verified by Council an acoustic assessment is to be undertaken (by an accredited Acoustic Engineer), and an acoustic report is to be submitted to Council for review of the report's recommendations. Any noise attenuation recommendations must be implemented.

ATTACHMENTS

- 1. Locality Plan
- 2. Aerial Photograph
- 3. Site Plan
- 4. Elevations
- 5. Landscape Plan
- 6. Shadow Diagrams
- 7. RTA Comments and Conditions

ATTACHMENT 1 – LOCALITY PLAN



- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED

- SUBMISSION RECEIVED - 1ST NOTIFICATION INCLUDING A PETITION CONTAINING 24 SIGNATURES
- ▲ SUBMISSION RECEIVED - 2ND NOTIFICATION INCLUDING A PETITION CONTAINING 12 SIGNATURES

THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

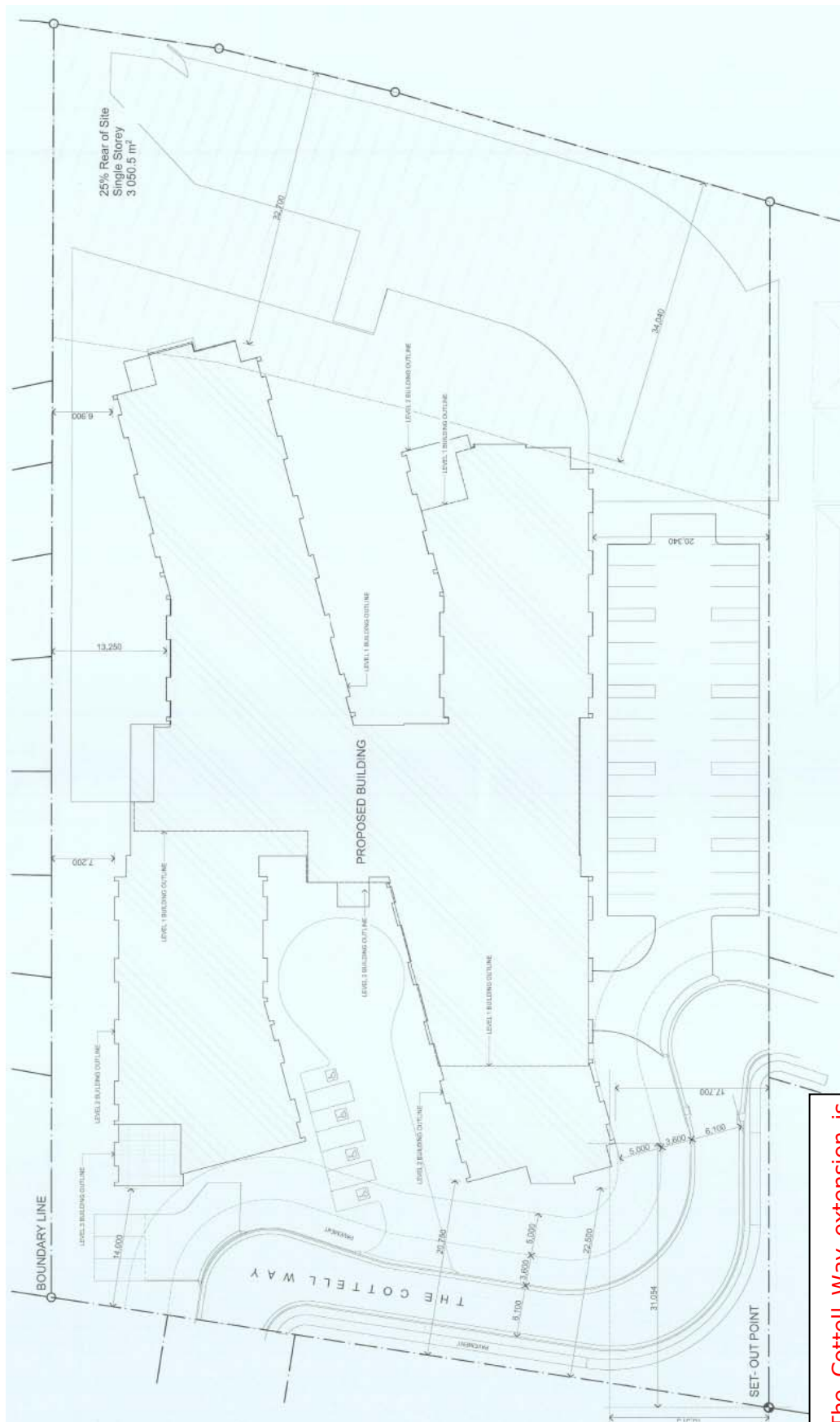
THE HILLS SHIRE COUNCIL DOES NOT GIVE ANY GUARANTEES CONCERNING THE ACCURACY, COMPLETENESS OR CURRENCY OF THE TEXTUAL INFORMATION HELD IN OR GENERATED FROM ITS DATABASE

BASE CADASTRE COPYRIGHT LAND & PROPERTY INFORMATION NSW (LPI). CADASTRE UPDATE INCLUDING COUNCIL GENERATED DATA IS SUBJECT TO THSC COPYRIGHT.

ATTACHMENT 2 – AERIAL PHOTOGRAPH

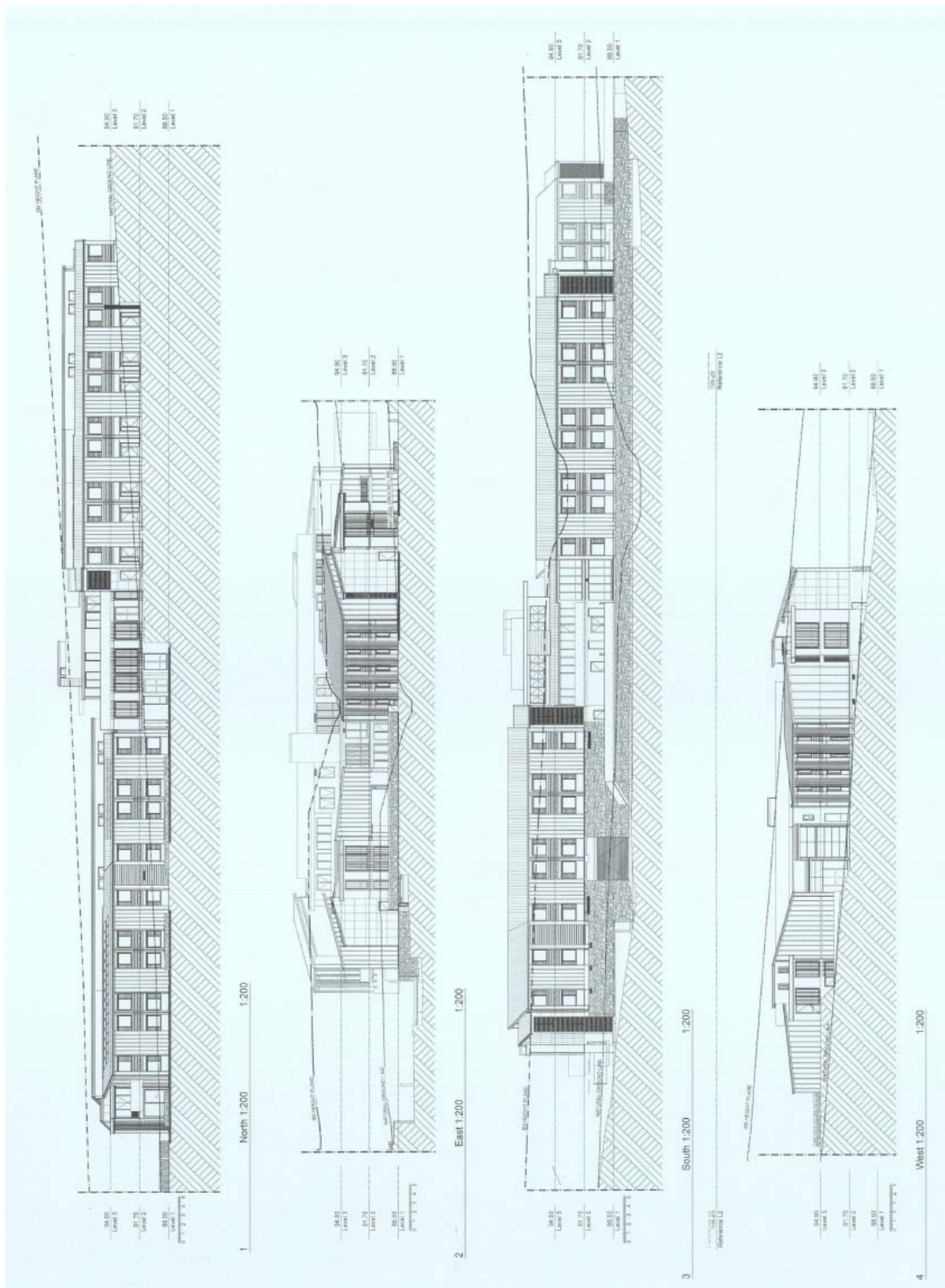


ATTACHMENT 3 – SITE PLAN



The Cottell Way extension is to be consistent with civil engineering plans prepared by Taylor Thomson Whitting (Drawing No. C02, Revision H, dated 19/04/2011).

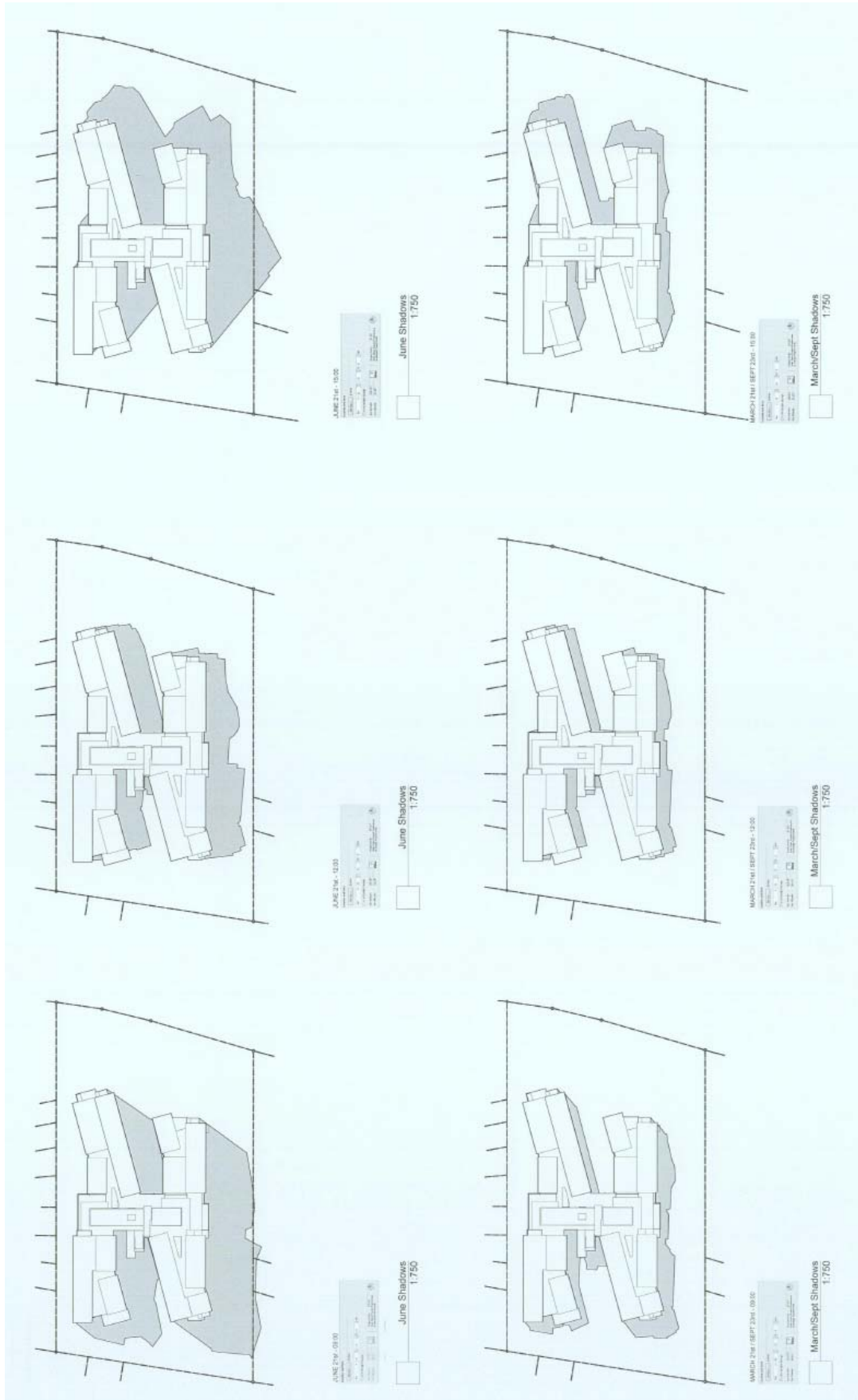
ATTACHMENT 4 – ELEVATIONS





ATTACHMENT 5 – LANDSCAPE PLAN



ATTACHMENT 6 – SHADOW DIAGRAMS



ATTACHMENT 7 – RTA COMMENTS AND CONDITIONS

<p>Your Reference: 220/2011/JP Our Reference: CAC 10M1785 SYD10/00665 Contact: Pahee Sellathurai Telephone: 8849 2219</p>	 

The General Manager
The Hills Shire Council
PO Box 75
CASTLE HILL NSW 1765

Attention: Sanda Svedas

PROPOSED 144 BED RESIDENTIAL AGED CARE FACILITY 442 – 446 WINDSOR ROAD, BAULKHAM HILLS

Dear Sir/Madam,

I refer to your correspondence dated 24 August 2010 (Council Reference 220/2011/JP) regarding the abovementioned development which was referred to the Roads and Traffic Authority (RTA) for comment.

The RTA has reviewed the development application and provides the following comments to Council for its consideration in the determination of development application:

1. A strip of land along the Windsor Road frontage of the subject property has been vested as road, as shown by grey colour on the attached plan. The subject property is also affected by an easement for batter along the Windsor Road frontage favouring the RTA, as shown by brown colour. The RTA has no objection to the proposed development on property grounds provided that the integrity of the easement is not compromised.
2. The RTA will not support vehicular access, including construction vehicular access, via the southern part of The Cottell Way for the proposed development. The southern section of The Cottell Way shall be closed for vehicular traffic at Windsor Road when the central part of The Cottell Way is constructed.
3. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1 – 2004, AS 2890.2 – 2002, and AS 2890.6 – 2009.
4. The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement prior to the release of the Construction Certificate.

Roads and Traffic Authority

27-31 Argyle Street Parramatta NSW 2150
PO Box 973 Parramatta CBD NSW 2150 DX28555 Parramatta
www.rta.nsw.gov.au | 13 17 82

5. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a construction certificate.
6. Council shall ensure that the post development storm water discharge from the subject site into the RTA drainage system does not exceed the pre-development application discharge. Should there be changes to the RTA's drainage system, then detailed design plans and hydraulic calculations of the stormwater drainage system are to be submitted to the RTA for approval, prior to the commencement of any works.

Details should be forwarded to:

The Sydney Asset Management
Roads and Traffic Authority
PO Box 973
Parramatta CBD 2124.

A plan checking fee will be payable and a performance bond may be required before the RTA's approval is issued. With regard to the Civil Works requirement please contact the RTA's Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

7. All work associated with the proposed development is to be at no cost to the RTA.
8. The traffic report submitted with the development application has used a trip generation rate of 0.2 per hour per dwelling for the independent living units and 0.1 vehicles per hour per bed for the residential care facility in the peak hour, which is based on RTA surveys undertaken in 1981.

However, the RTA has recently undertaken detailed surveys of a number of retirement villages and aged care facilities within the Sydney Metropolitan area and the surveys identified that the weekday site peak hour trip generation rate varied from 0.23 vehicle trips per unit to 0.55 vehicle trips per unit with an average of 0.37 trips.

As a result of the above, Council should consider requesting that the traffic impact of the overall master plan of the development site be based on the most recent surveyed data from the RTA.

9. The provision of off-street car parking shall be to the satisfaction of the Council.

Any enquiries in relation to this matter can be directed to Pahee Sellathurai on 8849 2219.

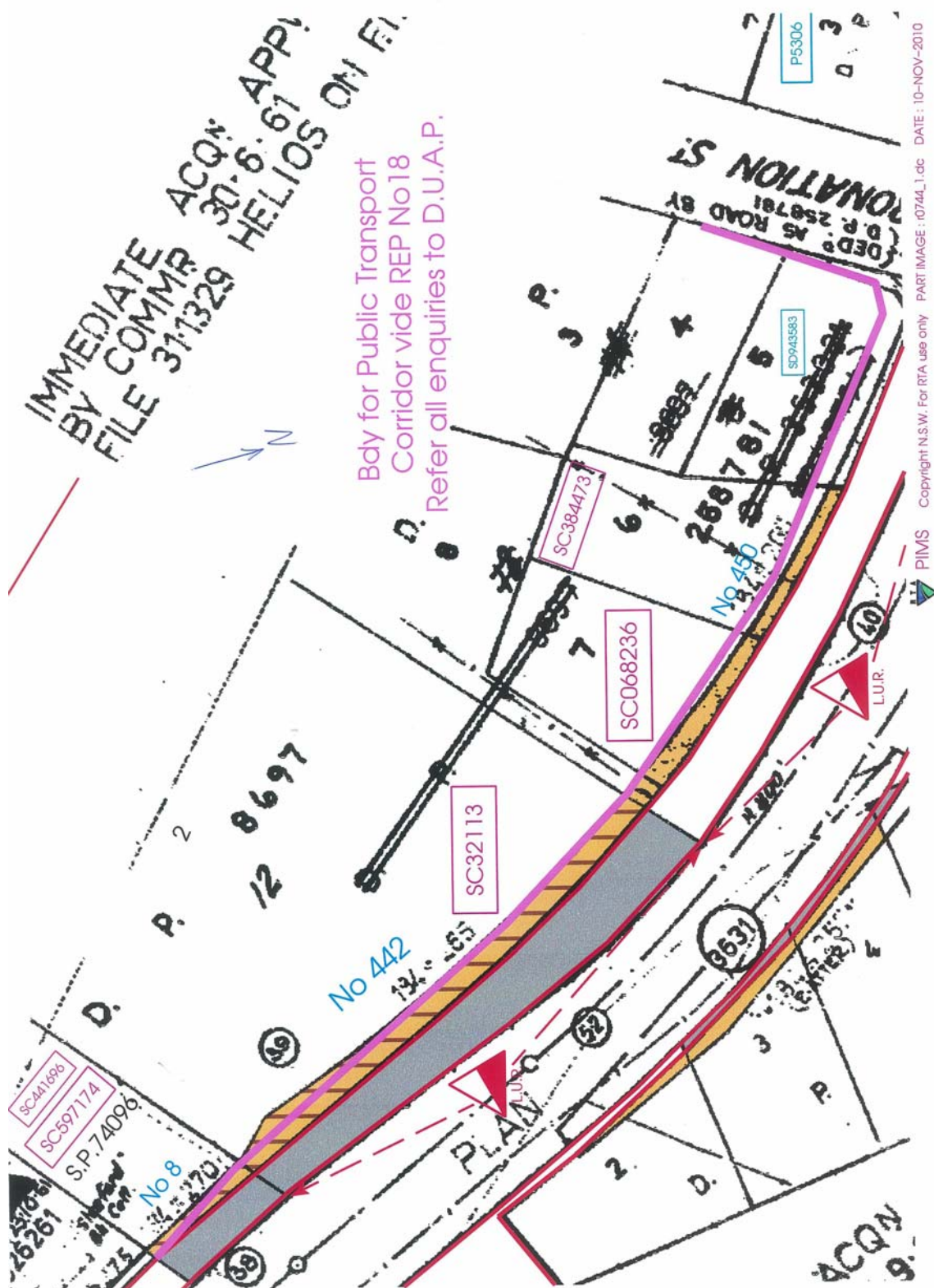
Yours sincerely,




Owen Hodgson
Senior Land Use Planner
Transport Planning, Sydney Region

12 November 2010

Bdy for Public Transport
Corridor vide REP No18
for all enquiries to D.U.A.P.



Your Reference: Our Reference: Contact: Telephone	220/2011/JP CAC 10M1785 SYD10/00665 Pahee Sellathurai 8849 2219	 Transport Roads & Traffic Authority

The General Manager
 The Hills Shire Council
 PO Box 75
 CASTLE HILL NSW 1765

Attention: Vidya Sivakumar

**PROPOSED 144 BED RESIDENTIAL AGED CARE FACILITY
 442 – 446 WINDSOR ROAD, BAULKHAM HILLS**

Dear Sir/Madam,

Further to our letter dated 12 November 2010, regarding the abovementioned development application, the RTA provides the following additional comments to the Council for its consideration in the determination of the development application.

1. The developer is required to design and construct kerb and gutter, shoulder, foot path and associated drainage works along the Windsor Road frontage of the development.
2. The abovementioned works shall be designed to meet RTA's requirements, and endorsed by a suitably qualified person. The design requirements shall be in accordance with the RTA's Road Design Guide and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to the RTA for consideration and approval prior to the release of construction certificate by Council and commencement of road works.
3. The RTA fees for administration, plan checking, civil works inspections and project management shall be paid by the Applicant prior to the commencement of works.
4. The Applicant will be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works identified on the classified road system. Please note that the Works Authorisation Deed will need to be executed to the RTA's satisfaction.
5. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
6. All works, including service adjustments and modifications, shall be at no cost to the RTA.

Roads and Traffic Authority of New South Wales

LEVEL 11, 27-31 ARGYLE STREET PARRAMATTA NSW 2150
 PO BOX 973 PARRAMATTA CBD NSW 2150 DX 28555
www.rta.nsw.gov.au | 13 22 13

Please note that the comments provided in the RTA letter dated 12 November 2010 is still applicable to this development.

Any enquiries in relation to this matter can be directed to Pahee Sellathurai on 8849 2219.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'O. Hodgson'.

Owen Hodgson
Senior Land Use Planner
Transport Planning, Sydney Region

13 May 2011