

JRPP No:	2011SYE004
DA No:	DA10/1360
PROPOSED DEVELOPMENT:	Demolition of Existing Structures and Construction of a Two (2) Storey, 144 Bed Residential Aged Care Facility with Basement Car Parking Lot 200 DP 1110295 - 101 Acacia Road, Sutherland
APPLICANT:	SDHA Pty Ltd
REPORT BY:	Greg Hansell Assessment Officer Planner Sutherland Shire Council 9710 0844

Assessment Report and Recommendation

1.0 EXECUTIVE SUMMARY

1.1 Reason for Report

Pursuant to the requirements of State Environmental Planning Policy (Major Development) 2005, this application is referred to the Joint Regional Planning Panel (JRPP) as the development has a capital investment value of more than \$10,000,000. The application submitted to Council nominates the value of the project as \$25,100,100.

1.2 Proposal

The application is for the demolition of existing structures and the construction of a two (2) storey, 144 bed residential aged care facility with basement car parking at the above property.

1.3 The Site

The subject site is located on the northern side of Princes Highway, just west of Acacia Road, in Sutherland.

1.4 The Issues

The main issues identified are as follows:

- Seniors housing provisions.
- Accessibility to services and facilities.
- Tree retention.
- Public submission.
- Sutherland Centre Strategy.

1.5 Conclusion

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

2.0 DESCRIPTION OF PROPOSAL

An application has been received for the demolition of all existing buildings over the entire site and the construction of a 'seniors housing' development consisting of a 144 bed residential aged care facility, generally in the western two-thirds of the site adjacent to Auburn Street. The eastern third of the site is to be retained as vacant land, pending future development that will be subject to a separate development application.

The building essentially comprises three (3) levels. The lowest level houses the car parking and servicing facilities and the upper levels house the residential accommodation. Due to the slope of the land, the lowest level is partly underground.

Vehicular access to and from the basement car park and the port cochere on the western side of the building is provided via two (2) separate driveways in Auburn Street. Pedestrian access to and from the main entry of the building is provided via a pathway that links to the Auburn Street frontage.

The proposed building includes the following key elements:

- A basement containing 43 parking spaces, a service vehicle loading and unloading area, staff rooms, kitchen facilities, laundry facilities, waste storage facilities, utility services and plant rooms and a lift lobby.
- A ground floor level containing a core of administrative and communal facilities, including a lobby, reception, offices, café and hair salon and four (4) residential wings, each with between 18-20 en-suite bedrooms, together with communal lounge, dining and outdoor terrace areas.
- A first floor level containing a core of administrative and communal facilities, including a lobby, staff education/office space and private dining room and four (4) residential wings, each with between 17-19 en-suite bedrooms, together with communal lounge, dining and outdoor terrace areas.

The proposed facility will provide residential accommodation for elderly people requiring high levels of care, including those with dementia specific illnesses and limited mobility. Based on other facilities operated by the proponent, the average age of residents of the proposed facility is anticipated to be 85 years or more.

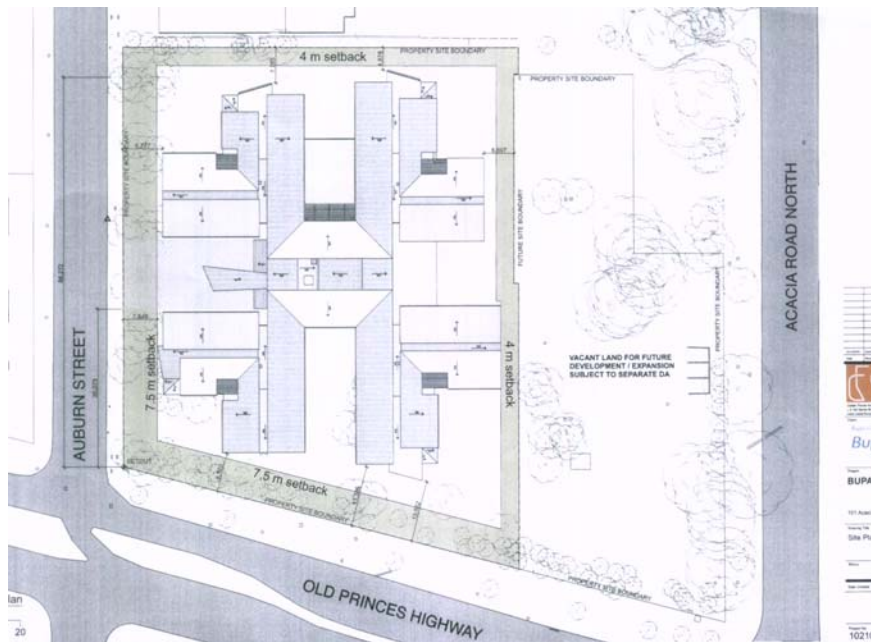


Figure 1: Site Plan of Proposal

3.0 SITE DESCRIPTION AND LOCALITY

The subject land is known as No. 101 Acacia Road, Sutherland. The site is currently vacant, but was previously occupied by Telstra and used as a works depot.



Figure 2: Site of Proposal looking north-east from Auburn Street

The site has an east-west orientation and is irregular in shape. It has frontages of 92.88 metres to Auburn Street, 81.93 metres to Acacia Road and

138.37 metres to Princes Highway. The site has a total area of 13,690 square metres.

The site falls away from Princes Highway, generally in a northerly direction. There is an approximate change of levels between the highest and lowest points of the site of 4.3 metres.

There are numerous mature trees located throughout the site, mainly situated adjacent to the three (3) street frontages and, to a lesser extent, along the northern site boundary and in the middle of the site. Some major trees also exist within the adjoining footpath area to the south of the site.

The streetscape and urban environment in the immediate vicinity of the subject land are characterised predominantly by residential development.

To the west of the site across Auburn Street are three (3) storey residential flat buildings. To the east of the site across Acacia Road are predominantly single storey detached dwelling houses. To the south of the site across Princes Highway are motor showrooms.

Immediately to the north of the site are a Telstra exchange building and telecommunications tower and an L-shaped parcel of land recently dedicated to Council as a public reserve and intended to be embellished as public open space. Beyond the public reserve is a three (3) storey residential flat building.

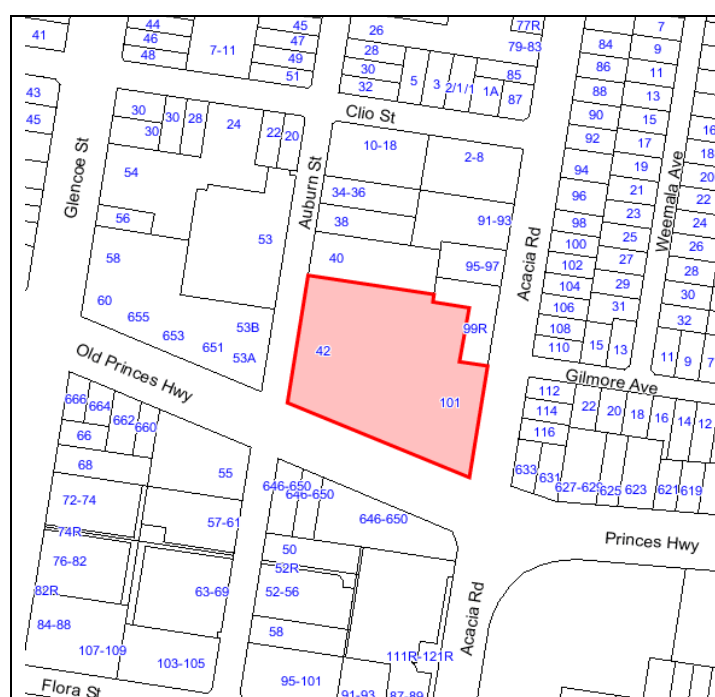


Figure 3: Location of Site



Figure 4: Aerial Photograph of Site

4.0 BACKGROUND

A pre-application discussion between the applicant and Council officers regarding a proposed residential aged care facility was held in December 2009. The applicant was subsequently advised that the concept was supported in-principle, subject to design changes. The current development proposal is of the same intensity of use, but radically different in its form and layout.

A history of the current development proposal is as follows:

- The application was submitted on 29 December 2010.
- The application was placed on exhibition, with the last date for public submissions being 28 January 2011. One (1) submission was received.
- The application was considered by Council's Architectural Review Advisory Panel ('ARAP') on 20 January 2011.
- An Information Session was held on 20 January 2011 and three (3) persons attended.
- The application was considered by Council's Submission Review Panel on 1 February 2011.
- Revised plans and additional information in response to the comments made by ARAP, Council Officers and the one (1) objector were submitted on 7 February 2011 and 21 February 2011.
- The Sydney East Region JRPP was briefed on the application on 10 March 2011.

5.0 ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the statement of environmental effects, plans and other documentation submitted with the application and after requests from Council, the applicant has provided adequate information to enable an assessment of this application.

6.0 PUBLIC PARTICIPATION

The application was advertised in accordance with the provisions of Chapter 12 of Sutherland Shire Development Control Plan 2006 (SSDCP2006) and other statutory requirements. One hundred and seventy two (172) adjoining or affected owners and occupants were notified of the proposal and one (1) submission was received as a result. This submission, which raises car parking and traffic issues, is addressed in detail later in the 'Assessment' section of this report.

The revised plans that were submitted following the application's public exhibition and assessment by Council Officers and Council's Architectural Review Advisory Panel (ARAP) were not renotified. In this regard, SSDCP2006 provides as follows:

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

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

These changes include:

- Revisions to sun screening devices to better respond to their orientation.
- Rationalisation of internal pathways to improve their functionality and maximise planting.
- Revisions to driveway forecourt to include additional planting to soften the space and enhance the privacy of adjacent rooms.
- Provision of raised planted beds with trees and shade pavilions within the northern and eastern ground floor terraces to improve the amenity of these spaces.
- Provision of additional tree planting throughout the site.
- Addition of small lounge areas at ground floor level on the northern ends of wings 3 and 4.
- Reconfiguration of the central lounge/terrace spaces on both levels of wings 1 and 2 to improve the functionality and amenity of these spaces.

- Minor refinements to the structural elements supporting the port cohere.

7.0 STATUTORY CONSIDERATIONS

The subject land is located within Zone 6 – Multiple Dwelling B pursuant to the provisions of Sutherland Shire Local Environmental Plan 2006 (SSLEP2006). The proposed development, being ‘seniors housing’ consisting of a residential care facility, is a permissible land use within the zone with development consent from Council.

The proposal is also permissible with consent by virtue of the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (‘Seniors Housing SEPP’) and this policy prevails over SSLEP2006 wherever there are inconsistencies between their provisions.

In addition to the Seniors Housing SEPP and SSLEP2006, the following environmental planning instruments and development control plans are relevant to the assessment of this application:

- State Environmental Planning Policy No. 1 – Development Standards (‘SEPP 1’).
- State Environmental Planning Policy No. 55 – Remediation of Land.
- State Environmental Planning Policy (Major Development) 2005.
- State Environmental Planning Policy (Infrastructure) 2007 (‘Infrastructure SEPP’).
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.
- Sutherland Shire Development Control Plan 2006 (‘SSDCP2006’).

The cluster of trees consisting of Tallow Wood, Blackbutt and Sydney Blue Gum, which is located along the southern edge of the site and within the adjacent road reserve, is identified as a ‘heritage item’ comprising ‘significant trees’ under the provisions of SSLEP2006.

The site falls within the ‘Sutherland Centre’ locality pursuant to the provisions of SSDCP2006 and is identified as a ‘Key Development Area’ for sustaining an increased residential population to support the centre.

8.0 STATEMENT OF COMPLIANCE

The table below contains a summary of applicable development standards under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and Sutherland Shire Local Environmental Plan 2006 and a compliance checklist relative to these standards.

STANDARD	REQUIREMENT	PROPOSAL	COMPLIANCE
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004			
Site Size Clause 40(2)	1000m ² (min)	9,180m ²	Yes
Site Frontage Clause 40(3)	20m (min)	95m	Yes
Sutherland Shire Local Environmental Plan 2006			
Number of Storeys Clause 34(4)	4 (max)	3	Yes
Floor Space Ratio Clause 35(9)(d)(i)	1:1 (max)	0.81:1	Yes
Landscaped Area Clause 36(5)(f)	60% (min)	44.8%	No – See Note 2 below
Lot Size Clause 42	1200m ² (min)	9,180m ²	Yes
Lot Width Clause 42	25m (min)	92.88m	Yes

Note 1: The above calculations for lot size, lot width, floor space ratio and landscaped area exclude that part of the site that is to be maintained in a vacant state, pending future development/expansion in accordance with a separate development application.

Note 2: In accordance with Clause 48 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, the proposal cannot be refused on the grounds of landscaped area as a minimum of 25 square metres of landscaped area per residential care facility bed is provided. In this regard, the proposal provides for 4,760 square metres of landscaped area (i.e. the equivalent of 33 square metres per residential care facility bed).

9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

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

9.1. Energy Australia

No concerns are raised by Energy Australia with regard to potential safety risks associated with electricity infrastructure on and surrounding the site, following consultations carried out in accordance with Clause 45 of the Infrastructure SEPP. Standard conditions are recommended for imposition, in the event of approval of the proposal.

9.2 NSW Police Force

Several crime prevention measures have been recommended for Council's consideration including lighting, landscaping, closed circuit television, security shutters, graffiti resistant finishes, alarms and other measures. Given the nature of the facility (being manned by staff on a continuous basis) and the

security measures that will be employed as a matter of course (such as security fencing and lighting), it is considered that a satisfactory level of security and safety for the facility and its future residents will be achieved, notwithstanding these recommendations. It is also evident from the submission that many of the recommendations are directed at residential accommodation in the form of self-contained dwellings rather than aged care facilities. Where appropriate and practicable, these measures can be readily addressed by suitable conditions of consent.

9.3 Architectural Review Advisory Panel

Council's Architectural Review Advisory Panel ('ARAP') considered this application on 20 January 2011 and its report was issued on 2 February 2011. The ARAP report was based on the plans that were submitted upon lodgement of the application. This report concluded as follows:

"The proposed building responds well to its context and is a functional building that will provide a good level of amenity to its future residents. Further improvement of the proposal's landscaping is recommended. The addition of small lounges to the lower level northern wings is also recommended. Further information is also required to document the proposed external finishes and solar screens."

A fully copy of this internal report is provided in Appendix "A".

9.4 Architect

Council's assessment team architect has assessed the revised plans and additional information submitted in response to the ARAP recommendations and is generally satisfied with the response. Most of the suggestions of ARAP have been included in the revised plans to a reasonable extent. Where these suggestions have not been incorporated, adequate justification has been provided.

9.5 Environmental Health Officer

Council's environmental health officer has undertaken an assessment of the application with respect to ventilation, noise impacts from the operation of the facility and noise impacts from Highway traffic and advised that, subject to suitable conditions of development consent, no objection is raised to the proposal.

9.6 Landscape Architect

Council's assessment team landscape architect has undertaken an assessment of the application with respect to tree retention/removal and landscaping and advised that, subject to suitable conditions of development consent, no objection is raised to the proposal. In particular, no concerns have been raised in terms of the proximity of building works to the heritage listed trees located adjacent to the southern boundary of the site.

No objection has been raised to the large number of existing major trees, located within the building footprint, being removed to make way for the proposed building. However, there are a few other trees identified by the

applicant for removal, located outside the footprint of the building and within proposed landscaped areas, that are considered worthy of and practicable for retention. These trees are numbered 50, 51 and 52 on the survey plan submitted by the applicant and are located adjacent to the south-western corner of the proposed building.

Retention of these trees is considered desirable and consistent with the recommendation of ARAP to retain as many trees as possible. A suitable condition of development consent has been imposed to this effect (refer Condition 41).

9.7 Environmental Scientist

Council's assessment team environmental scientist has undertaken an assessment of the application with respect to potential site contamination and electromagnetic radiation ('EMR') from the adjacent telecommunications tower and advised that, subject to suitable conditions of development consent, no objection is raised to the proposal.

An independent site audit, undertaken prior to the rezoning of the land for residential purposes, concluded that the levels of contamination residual on the site were suitable for residential land use, subject to minimal access to the soil. Based on the results of a study carried out prior to the rezoning of the land that predicted that EMR levels would be well within maximum exposure limits, exposure to EMR from the adjacent telecommunications tower is unlikely to be a significant issue.

9.8 Engineer

Council's assessment team engineer has undertaken an assessment of the application with respect to stormwater management, vehicular access, car parking and servicing arrangements, traffic management, site management and road frontage works requirements and advised that, subject to suitable conditions of development consent, no objection is raised to the proposal.

The two (2) disabled parking spaces within the basement are deficient in dimensions when assessed against the provisions of AS2890.6 (2009). This deficiency can be readily overcome by locating these spaces together, in a more appropriate location within the basement, closer to the foyer. A suitable condition of development consent has been imposed to this effect (refer Condition 14).

9.9 Building Surveyor

Council's assessment team building surveyor has undertaken a preliminary assessment of the application with respect to the provisions of the Building Code of Australia (BCA) and advised that, subject to suitable conditions of development consent, no objection is raised to the proposal.

9.10 Community Services

Council's Community Services Department has undertaken an assessment of the application with respect to crime risk, general accessibility and access for

people with disabilities and advised that, subject to suitable conditions of development consent, no objection is raised to the proposal.

10.0 ASSESSMENT

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

10.1 Provisions of the Seniors Housing SEPP

The proposal satisfies the overall aims of the Seniors Housing SEPP in that it increases the supply and diversity of residences that meet the needs of seniors or people with a disability, makes efficient use of existing infrastructure and services and is of good design. The relevant provisions of the Seniors Housing SEPP are addressed as follows.

10.1.1 Type of Residential Accommodation

Clause 11 provides as follows:

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

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

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

10.1.2 Location and Access to Facilities

The applicant has not provided satisfactory written evidence that residents of the proposal will have access from the site to the necessary services and facilities, in accordance with the provisions of Clause 26. Whilst there is a suitable bus service within 400 metres walking distance of the site, sections of the pedestrian routes to this bus service are not provided with sealed footpaths and it is unclear as to whether these routes fully comply with or could be made to fully comply with the maximum gradient requirements. In this regard, the applicant has not provided any information as to the suitability of the grades along these pedestrian routes or the feasibility of providing sealed footpaths of suitable grades where they do not currently exist.

Instead, the applicant argues that they comply with the provisions of Clause 26, as the necessary services and facilities are to be provided on site as part of the residential care facility operations. The applicant has also prepared and submitted a written Objection to the development standard, pursuant to the provisions of SEPP 1, in the event that the consent authority does not

agree with this proposition. The applicant essentially argues that compliance with the development standard is unreasonable and unnecessary, based on the nature of the residents and extent of facilities and services to be provided on-site for those residents.

This matter is addressed in detail later in this section.

10.1.3 Water and Sewer

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

10.1.4 Site Compatibility

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

- The site and immediate surrounds are not subject to any natural hazard risks such as flooding or bushfire or any known significant environmental values such as remnant bushland or endangered flora and fauna.
- The site has been used for potentially contaminating activities in the past, but a recent site audit concluded that the levels of contamination residual on the site are suitable for residential land use, subject to minimal access to the soil.
- The site adjoins a telecommunications tower, but a recent study concluded that electromagnetic radiation levels from this facility would be well within maximum exposure limits as prescribed by the relevant Australia Standard.
- Adjacent development to the north, east and west of the site is almost exclusively residential in character.
- The site is well buffered from any impacts arising from the operations of the motor showrooms to the south by the existing screen of trees on the southern edge of the site and the substantial separation provided by the road reserve of Princes Highway.
- The site is within a locality that is already provided with the necessary water and sewerage infrastructure.
- The site is highly accessible to a range of public transport options, being 800 metres walking distance from Kirrawee Railway Station, 1000 metres walking distance from Sutherland Railway Station and 250 metres walking distance from the Sutherland to Cronulla (via Miranda Westfield) bus service (Route 969) operated by Veolia Transport.
- Overshadowing, overlooking, visual bulk and noise impacts upon residents in the immediate locality are substantially minimised due to the relatively low scale and ample boundary setbacks of the proposed building, together with the separation provided by the surrounding roads, adjacent Telstra exchange building and public reserve.

- The bulk, scale, built form and character of the proposed building generally reflect the residential flat buildings opposite and further to the north in Auburn Street. As the proposed building does not directly address Acacia Road, no significant issue arises in terms of the proposal's compatibility with the predominantly single storey detached dwelling houses located opposite in that street.

10.1.5 Site Analysis

The site analysis information accompanying the development application is considered satisfactory in terms of the requirements as outlined in Clause 30. The development application demonstrates that the proposal has evolved from a proper site analysis that identifies the key opportunities and constraints of the site.

10.1.6 Design Principles

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

- Neighbourhood Amenity and Streetscape

Clause 33 provides as follows:

"The proposed development should:

- (a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and*
- (b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and*
- (c) maintain reasonable neighbourhood amenity and appropriate residential character by:*
 - (i) providing building setbacks to reduce bulk and overshadowing, and*
 - (ii) using building form and siting that relates to the site's land form, and*
 - (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and*
 - (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and*
- (d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and*
- (e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and*
- (f) retain, wherever reasonable, major existing trees, and*

(g) *be designed so that no building is constructed in a riparian zone.”*

Comment: It is considered that adequate regard has been given to this design principle.

The surrounding locality is characterised predominantly by residential buildings, well set back from street frontages and behind trees, shrubs and groundcovers. This character creates a feeling of openness and leafiness. The proposal recognises this positive feature by incorporating ample building setbacks to site boundaries and ample separation between the individual wings within the development, together with existing and proposed tree, shrub and ground cover planting within these setback areas and open spaces.

The heritage listed trees located along the southern edge of the site are adequately retained and complement the landscaping scheme of the proposal. The proposed building works are located well clear of these trees such that their long term retention is ensured.

The ample building setbacks to the boundaries of the site, together with the existing and proposed tree and shrub planting within the setback areas, will ensure that the visual bulk of the proposal is reasonable in its residential context. The proposed building setbacks result in no overshadowing of adjacent residential properties and minimal overshadowing of the adjacent footpath areas.

The proposed building takes advantage of the slight slope of the land by locating the basement vehicular access at the lowest points within the site and accommodating car parking and servicing activities within a basement level excavated into the slope.

The height and 2-3 storey scale of the proposed building, at its street frontages, are compatible with the prevailing three (3) storey scale of residential flat development in Auburn Street. Although the proposed building will appear taller, relative to the front portion of the Telstra exchange building immediately to the north, the proposed setbacks and tree and shrub planting will substantially mitigate any apparent difference in scale between these buildings.

The proposed building is well set back from its street frontages, consistent with the 7.5 metre street setback control that prevails in the majority of residential areas in Sutherland Shire and in sympathy with the street setbacks of existing buildings in Auburn Street and surrounding the site.

Extensive plantings of native tree, shrub and groundcover species are provided throughout the development and at its peripheries, consistent with other planting in the streetscape.

Subject to the retention of those additional trees located within the proposed landscaped areas outside the building footprint, as recommended by Council's Landscape Assessment Officer, the proposal retains a reasonable

proportion of the major existing trees on the site. Most importantly, the band of trees located adjacent to the southern boundary of the site and identified as having heritage significance are being retained and integrated into the landscaping scheme of the proposal.

- Visual and Acoustic Privacy

Clause 34 provides as follows:

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

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

Comment: It is considered that adequate regard has been given to this design principle.

The visual and acoustic privacy of residents in the immediate locality are maintained by virtue of the relatively low scale and ample boundary setbacks of the proposed building, together with existing and proposed tree and shrub planting within the setback areas and the separation provided by the surrounding roads, adjacent Telstra exchange building and public reserve. It is also noted that the resident rooms are orientated such that they overlook internal courtyards, rather than the streets and surrounding properties and major outdoor communal areas are recessed into the built form, well away from the peripheries of the site.

For the majority of residents of the development, a reasonable degree of visual and acoustic privacy will be achieved through the separation of the individual wings by ample landscaped courtyards and proposed tree and shrub planting immediately adjacent to the perimeter of the proposed building.

- Solar Access and Design for Climate

Clause 35 provides as follows:

“The proposed development should:

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

Comment: It is considered that adequate regard has been given to this design principle.

Existing access to sunlight and daylight for residents in the immediate locality is reasonably maintained by virtue of the relatively low scale and ample boundary setbacks of the proposed building, together with the separation provided by the surrounding roads, adjacent Telstra exchange building and public reserve. This outcome has been confirmed by shadow diagrams submitted by the applicant.

The vast majority of the bedrooms in the development (i.e. over 75% of the bedrooms) have an easterly, westerly or northerly aspect and will receive some degree of access to sunlight. The roof of the building has been designed to incorporate skylights and clerestory windows, such that sunlight is able to penetrate into the internal areas of the uppermost floor level. The main living areas and outdoor terraces will receive varying levels of access to sunlight, which on balance is considered acceptable given the nature of the facility and its residents.

The design of the proposed building, incorporating four (4) distinct wings radiating out from a distinct central core, ensures that all bedrooms and main living areas will benefit from some degree of natural ventilation and access to daylight. A range of solar screening devices have been incorporated on the windows of the northern, western and eastern elevations of the building, as appropriate to their orientation and the use of the associated rooms, so as to control solar access in the summer months. These measures will assist in reducing the energy use of the proposed building.

- Stormwater

Clause 36 provides as follows:

“The proposed development should:

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

Comment: It is considered that adequate regard has been given to this design principle.

The stormwater drainage and landscape plans submitted with the application indicate a range of measures that are intended to be incorporated for the purposes of minimising the impacts of stormwater runoff. These measures include the provision of extensive deep soil areas incorporating soft landscaping, a stormwater detention tank to limit outflows into Auburn Street and a gross pollutant trap to filter stormwater runoff. It is also noted that the extent of impervious areas over the site will be reduced as a result of the proposal and therefore less stormwater will be discharged to Council’s drainage systems.

- Accessibility

Clause 38 provides as follows:

“The proposed development should:

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

Comment: It is considered that adequate regard has been given to this design principle.

The site is highly accessible to a range of public transport options, by reason of its walking distance proximity to both Kirrawee and Sutherland Railway Stations and the Sutherland to Cronulla (Route 969) bus service operated by Veolia Transport and the reasonably well developed pathway network in the locality. Although the pedestrian routes to these transport services may not be entirely suitable for residents of the facility by reason of their grades and surfaces, they are nonetheless adequate for staff and the more mobile visitors of the facility.

Within the site, pedestrian and vehicular access is generally segregated. Extensive landscaping is provided adjacent to the driveways and pathways throughout the facility. The basement car parking spaces are adequate in number and conveniently accessible. The provision of the separate driveway leading to the port cochere and main entry and associated parking will be advantageous for those visitors seeking to stop for a short duration to pick-up or set-down residents.

- Waste Management

Clause 39 provides as follows:

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

Comment: It is considered that adequate regard has been given to this design principle.

The applicant has submitted a waste management plan that provides for the separate storage and collection of recyclable waste materials (including paper, plastic, glass and metals) during the operational phase of the development. This waste will be collected weekly and disposed of at a waste recycling station.

10.1.7 Development Standards

Clause 40 stipulates a minimum site size requirement of 1000 square metres and a minimum site frontage requirement (as measured at the building line) of 20 metres. The subject site readily satisfies these development standards,

being 9180 square metres in area and having a frontage of 95 metres measured at the building line.

10.1.8 Other Standards

Clause 48 requires that a consent authority must not refuse consent to a residential care facility on the grounds of building height, density and scale, landscaped area and parking for residents and visitors, if certain numerical standards are met. It is also noted that these standards do not impose any limitations on the grounds on which a consent authority may grant development consent. On this basis, a consent authority is not limited in its capacity to grant approval for an aged care facility based on numerical limits to these standards.

These standards are addressed as follows.

- Building Height

“A consent authority must not refuse consent.....if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys)”

Comment: Due to the slope of the land and the design of the roof forms to include raked ceilings and clerestory windows, minor portions of the building are greater than eight (8) metres in height, as measured from the uppermost ceiling to the ground level directly below. However, this is of no consequence, given that a four (4) storey height limit applies to development of the site for the purposes of seniors housing under the provisions of SSLEP2006 and the proposal readily satisfies this height limit, being three (3) storeys in height.

- Density and Scale

“A consent authority must not refuse consent.....if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less”

Comment: The proposed building achieves a floor space ratio of 0.81:1, consistent with the above standard. The site area upon which this floor space ratio calculation is based, excludes the 4,510 square metres of land over the eastern third of the site that is to be maintained in a vacant state for the time being.

- Landscaped Area

“A consent authority must not refuse consent.....if a minimum of 25 square metres of landscaped area per residential care facility bed is provided”

Comment: The proposal achieves a landscaped area of 33 square metres per residential care facility bed, consistent with the above standard. This calculation excludes any landscaped areas on the 4,510 square metres of land over the eastern third of the site that is to be maintained in a vacant state for the time being.

- Parking for Residents and Visitors

“A consent authority must not refuse consent.....if at least the following is provided:

- (i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and*
- (ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and*
- (iii) 1 parking space suitable for an ambulance”*

Comment: On the basis of the proposed facility having 144 beds and a maximum of 48 staff on duty at any one time, 40 parking spaces (including a space for an ambulance) would be sufficient. The proposal makes provision for 43 parking spaces for staff and visitors within the basement level and three (3) short term parking spaces and a parking space suitable for an ambulance within the entry forecourt/port cochere area, consistent with the above standard.

10.2 Location and Access to Services

The provisions of Clause 26 of the Seniors Housing SEPP essentially requires applicants to demonstrate that residents of seniors housing developments will have suitable access from the site to a range of necessary services and facilities, whether by means of sealed footpaths or a combination of sealed footpaths and public transport services, in accordance with set distance and gradient criteria. The provisions of Clause 26 of the Seniors Housing SEPP are detailed in full in Appendix “B” of this report.

The applicant has not provided satisfactory written evidence that residents of the proposal will have access from the site to the necessary services and facilities, in accordance with the provisions of Clause 26. Whilst there is a suitable bus service within 400 metres walking distance of the site, sections of the pedestrian routes to this bus service are not provided with sealed footpaths and it is unclear as to whether these routes fully comply with or could be made to fully comply with the maximum gradient requirements. In this regard, the applicant has not provided any information as to the suitability of the grades along these pedestrian routes or the feasibility of providing sealed footpaths of suitable grades where they do not currently exist.

Instead, the applicant argues that they comply with the provisions of Clause 26 of the Seniors Housing SEPP as the necessary services and facilities are to be provided on site as part of the residential aged care facility operations. This argument is not supported on the basis that the provisions of this clause specifically imply that these services and facilities would be located off-site. In this regard, sub-clause (2) refers to such facilities and services being located at a distance of not more than 400 metres “from the site” of the proposal.

The applicant has prepared and lodged a written Objection pursuant to the provisions of SEPP 1 with respect to the development standard set out in

Clause 26 of the Seniors Housing SEPP for consideration by the consent authority, in the event of its first proposition not being supported. This written Objection is detailed in full in Appendix “C” of this report.

The applicant’s arguments that strict compliance with the provisions of the relevant clause is unreasonable and unnecessary in the circumstances of the case are reproduced as follows:

“As mentioned in the SEE accompanying the development application nursing home living is not a lifestyle option; rather it is obtained on a needs basis. There is an identified need within Sutherland Shire to provide residential aged care facilities which allow aging residents to remain in their locality, close to family, friends and existing social networks.

Whilst some aged care homes continue to specialise in low- or high level care, the proposed Bupa facility offers the full continuum of care which allows residents to ‘age in place’ – they can stay in the same home as their care needs increase.

Bupa Care Services aged care homes provide a range of care and services to residents including:

- *staff to provide help at all times, including in emergency situations;*
- *assistance with daily living activities such as bathing, showering, dressing and mobility;*
- *assistance with medications;*
- *meals and refreshments, taking into account special dietary needs;*
- *basic furnishings including carpets, curtains, chairs, beds and bed linen;*
- *bath towels, face washers, soap and toilet paper;*
- *a laundry service, cleaning services and maintenance of buildings and grounds;*
- *services such as hairdressing, library, internet podiatry; and*
- *social activities.*

Bupa employs suitably skilled and qualified staff to provide assistance to residents. All residents with high level care needs must have their nursing services carried out by a registered nurse. Additionally, all residents are provided with assistance in obtaining services from health practitioners including the family doctor.

The average age of residents moving into a Bupa residential aged care facility is approximately 85+.

Residents do not have the ability to independently access bus services or nearby centres. All services have to be provided on site to the residents or they need to be transported by ambulance or other means to the medical or community services they require.

In the case of the proposed development such access will be provided to residents as this is the very nature and intention of the facility.

Independent seniors who may seek to use the services of a bus to access nearby shopping or neighbourhood centres would not be eligible to gain access to the facility.

To the extent that the objective of the standard is to ensure that an appropriate level of care and support will be provided to seniors, it is submitted that the proposed development meets this objective to a high standard.”

Analysis:

In *Winten Property Group Limited v North Sydney Council* (2001) NSW LEC 46, Justice Lloyd established a set of five (5) questions which are now an accepted convention for assessing SEPP 1 Objections. An assessment of the SEPP 1 Objection in accordance with this convention is provided as follows.

(a) Is the Requirement a Development Standard?

The relevant clause is a development standard as it includes requirements in respect of the distance of land from a specified point and the provision of services and facilities demanded by development.

(b) What is the Underlying Object or Purpose of the Standard?

The Seniors Housing SEPP does not include any stated objective or purpose to support the relevant clause. The applicant infers that the object of the standard is to ensure that residents have access to all facilities and services they reasonably require. This is considered to be a reasonable assumption.

(c) Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the EP&A Act?

The objects of the Act are:

5(a)(i) - to encourage the proper management, development and conservation of natural and man-made resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.

5(a)(ii) - to encourage the promotion and coordination of the orderly and economic use and development of land.

The granting of development consent to the proposal would be consistent with the aims of SEPP 1 and the objects of the Act. A variation to the development standard set out in Clause 26 of the Seniors Housing SEPP is considered to be reasonable in the circumstances of the case.

The development of the site for the purposes of a residential aged care facility is considered to be an appropriate use of the land, having regard to its residential context and reasonable proximity to public transport services. The proposal would comply with the provisions of the relevant clause, but for some minor sections of the pedestrian routes to the local bus service not being provided with sealed footpaths of suitable grades.

(d) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

The applicant essentially argues that compliance with the development standard is unreasonable and unnecessary, based on the frailty and limited mobility of the residents and the extent of facilities and services to be provided on-site for those residents.

This proposition is supported. As part of its operations the residential aged care facility will provide a range of commercial, retail, social, recreational and medical services, to meet the needs of the residents. The residents will have limited independence, mobility and activity. As such, it is considered that there is no necessity for an accessible path of travel to the local bus services.

The applicant also indicates that they will provide a bus service for residents of the residential care facility, as and when the need arises. This can be reinforced through a suitable condition of development consent (refer Condition 66).

(e) Is the Objection Well Founded?

The SEPP 1 Objection provides evidence to demonstrate that compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case.

SEPP 1 Conclusion:

Having regard to the assumed object of the standard, it is considered that:

- (i) The argument within the SEPP 1 Objection that compliance with the development standard is unreasonable and unnecessary is well founded; and
- (ii) The granting of consent to the development application would be consistent with the aims of SEPP 1 as set out in Clause 3 of the Act.

10.3 Tree Retention

Although a large number of the existing trees are proposed to be removed to accommodate the building and driveways, a reasonable proportion is to be retained, including most importantly, the dense band of trees adjacent to the Highway frontage and the majority of the trees adjacent to the Auburn Street frontage of the site. Council's Landscape Architect has also identified a few other trees intended for removal that could feasibly be retained within the landscaped areas.

The retention of these trees, together with the substantial amount of tree planting proposed, will ensure that the existing leafy character of the

neighbourhood is reasonably maintained and an appropriate balance between the built form and tree canopy is achieved.

10.4 Public Submission

The objector is concerned that the amount of car parking provided on site will not be sufficient for staff and visitors and consequently will create parking problems in Auburn Street and Acacia Road.

As outlined earlier in this report, the proposal makes provision for an acceptable amount of on-site car parking for staff and visitors, consistent with the provisions of the Seniors Housing SEPP. Further, the operator intends to stagger the starting and finishing times of staff within the various shifts, such that competition for on-site car parking spaces is minimised at staff change-over times. Demand for car parking, especially from staff, is likely to be further reduced by virtue of the site's reasonable walking distance proximity to a range of public transport services including bus and rail. It must also be recognised that the site has a considerable frontage to Auburn Street that is able to accommodate a significant amount of kerbside parking.

As the proposal makes provision for an amount of on-site car parking consistent with the Seniors Housing SEPP, it cannot be refused on such grounds. Suitable operational conditions of development consent should be imposed so as to ensure that the on-site car parking spaces are available at all times for staff and visitors (refer Condition 61).

The objector also requests the provision of a slip lane, to allow traffic turning left from Auburn Street to safely and conveniently enter the traffic using the Highway. The need for this slip lane is further reinforced due to the existing street trees to the west of this intersection obstructing vision of on-coming traffic.

The residential aged care facility will, for the most part, generate a negligible amount of traffic. Most of the traffic generation will occur at limited times of the day (i.e. at staff arrival and departure times and at shift changes) and for limited durations. Further, the traffic generated by the facility would be a fraction of the amount of traffic currently generated by residential development in the locality and using Auburn Street. As such, it is considered that there is no reasonable nexus between the proposal and the need for such a slip lane.

This matter is essentially a separate issue and should be referred to Council's Traffic & Transport Unit for investigation, so as to determine whether the amount of traffic currently making left turn movements from Auburn Street into Princes Highway or the current road geometry justifies the provision of a slip lane or some other traffic management measure.

The objector also requests that all construction worker vehicles be parked on the vacant part of the site during construction, so as to ease parking problems in Auburn Street and Acacia Road. In response, the applicant advises that the builder will be directed to use the vacant part of the site as the primary

area for parking of construction workers vehicles. This can be reinforced through a suitable condition of development consent (refer Condition 19).

10.5 Sutherland Centre Strategy

The site falls within the 'Sutherland Centre' locality pursuant to the provisions of SSDCP 2006 and is identified as a 'Key Development Area' for sustaining an increased residential population to enhance the economic viability and vitality of the centre. The zoning of the site, so as to allow 'residential flat buildings' of up to four (4) storeys in height and of a maximum 1:1 floor space ratio, is a reflection of the above strategy.

The aim of the Sutherland Centre, as relevant to the site, is to *'Enhance the economic viability and vitality of the Sutherland Centre commercial core through an increased residential population within walking distance of the railway station, bus routes, commercial centre and community facilities'*.

Whilst the proposal does not take full advantage of the land use, density and height controls that apply to the site or fulfil the above aim of the Sutherland Centre to the maximum extent possible, it does reasonably satisfy the aims and objectives of the Seniors Housing SEPP and meets a strong need in the community. In any event, the Seniors Housing SEPP prevails to the extent of the inconsistency between its aims and those of the Sutherland Centre as outlined above.

11.0 SECTION 94 CONTRIBUTIONS

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

12.0 DECLARATION OF AFFILIATION

There was no declaration of affiliation, gifts or political donations noted on the development application form submitted with this application.

13.0 CONCLUSION

The proposed development is for the demolition of existing structures and construction of a two (2) storey, 144 bed residential aged care facility with basement car parking at No. 101 Acacia Road, Sutherland.

The subject land is located within Zone 6 – Multiple Dwelling B pursuant to the provisions of Sutherland Shire Local Environmental Plan 2006. The proposed development, being 'seniors housing' consisting of a residential care facility, is a permissible land use within the zone with development consent.

In response to public exhibition, one (1) submission was received. The matters raised in this submission have been dealt with by conditions of development consent, where appropriate.

The issues raised as a result of the Architectural Review Advisory Panel's review of the proposal have been satisfactorily addressed by the applicant through minor design changes and additional information.

The proposal includes a variation to the accessibility standard prescribed in Clause 26 of the Seniors Housing SEPP. This variation has been discussed in the report and is considered acceptable, due to the nature of the residents and extent of services and facilities to be provided on the site.

The proposed tree planting, together with the retention of the dense band of existing trees along the southern edge of the site, the majority of existing trees at the western periphery of the site and those other existing trees proposed to be removed but identified by Council officers as being worthy of retention, will ensure that the existing leafy character of the neighbourhood is reasonably maintained and an appropriate balance between the built form and tree canopy is achieved.

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

The application has been assessed having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979, the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and all relevant environmental planning instruments, development control plans, codes and policies. Following detailed assessment, it is considered that Development Application No. 10/1360 may be supported for the reasons outlined in this report.

14.0 RECOMMENDATION

- 14.1 That pursuant to the provisions of Clause 6 of State Environmental Planning Policy No. 1 (SEPP 1), the Objection submitted in relation to the requested departure from the accessibility standard under Clause 26 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 is considered to be well founded and is therefore supported. Accordingly, the provisions of SEPP 1 are invoked and this development standard is varied in the manner proposed by this development application.
- 14.2 That Development Application No. 10/1360 for Demolition of Existing Structures and Construction of a Two (2) Storey, 144 Bed Residential Aged Care Facility with Basement Car Parking at Lot 200 DP 1110295 (No. 101) Acacia Road, Sutherland be approved, subject to the following draft conditions of consent.

15.0 DRAFT CONDITIONS OF DEVELOPMENT CONSENT

GENERAL CONDITIONS

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

1. Approved Plans and Documents

The development shall be implemented substantially in accordance with the details set out on the architectural plans, Drawing Nos. DA03A Issue A dated 23 December 2010, DA04A Issue B dated 19 January 2011, DA05A Issue B dated 3 February 2011, DA06A Issue B dated 3 February 2011, DA07A Issue B dated 3 February 2011, DA09A Issue B dated 3 February 2011, DA11A Issue A dated 23 December 2010, DA13A Issue A dated 3 February 2011, DA14A Issue A dated 3 February 2011 and drawing entitled 'Sunshading Details' received by Council on 21 February 2011, prepared by Calder Flower Architects Pty Ltd and any details on the application form and on any supporting information received with the application, except as amended by the conditions specified and imposed hereunder.

Note 1:

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

Note 2:

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

Note 3:

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

- a) Notification of the appointment of a Principal Certifying Authority (PCA) and a letter of acceptance from the PCA.
- b) Notification of the commencement of building works, with a minimum of 2 days notice of such commencement.

Note 4:

Nothing in this development consent, whatsoever, approves or authorises any subdivision of the land.

2. Prescribed Conditions

The following are prescribed conditions of development consent pursuant to s.80A(11) of the Environmental Planning and Assessment

Act 1979 and cl.98 of the Environmental Planning and Assessment Regulation 2000.

A. Compliance with the Building Code of Australia

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

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

In relation to non-residential building work, Builders details shall be provided to Council with the Notice of Commencement.

3. Approvals Required under Roads Act or Local Government Act

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

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

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

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

4. Accessibility

- a) The development shall comply with the Commonwealth Aged Care Accreditation Standards.
- b) The development shall comply with AS1428.1 - 2009.
- c) The lifts shall comply with AS1735.12 - 1999.
- d) The two (2) accessible car parking spaces within the basement shall comply with AS2890.6.

5. Crime Prevention

- a) All pathway lighting is to provide at least 20 lux at ground level.

- b) All external doors and windows at the basement floor level are to be fitted with access control devices.
- c) Any vehicular security door/gate provided at the entrance to the basement or at any point along the driveway associated with the basement is to be designed and installed so that it cannot be manually over-run by people attempting to gain unauthorised access.
- d) The walls and ceilings in the basement car park are to be painted white.
- e) The doors and windows at the ground floor level are to be fitted with security devices.
- f) All external walls of the building that are accessible to the general public are to be treated with non-sacrificial anti-graffiti coatings.

Bonds

The following security bonds have been levied in relation to the proposed development.

6. Environmental, Damage & Performance Security Bond

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

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

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

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

The value of the bond shall be determined as follows:

Development Value	Refundable Deposit ♦
Less than \$50,000 ♦♦	\$2,110.00
\$50,000 - \$150,000	\$2,110.00
\$150,001 - \$300,000	\$3,110.00

Greater than \$300,000	\$5,110.00
Swimming Pools	\$2,110.00
Demolition / Earthworks	\$3,110.00

- ♦ Bond amount includes a non refundable administration fee of \$110. Where the bond takes the form of a Bank Guarantee, the \$110 administration fee must be paid separately.
- ♦♦ Development valued at less than \$50,000 only where:
 - deliveries or removal of materials occur in vehicles of Small Rigid Vehicle (4.0 tonnes) size or larger and/or
 - there is delivery or removal of construction machinery, and
 - a constructed footpath or a stormwater pit exists along the frontage of the property or within 10 metres on either side of the property.

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

MATTERS RELATING TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

Design Conditions

These design conditions are imposed to ensure the development, when constructed, meets appropriate standards for public safety and convenience.

7. Detailed Landscape Plan

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

The Detailed Landscape Plan shall be based on the Concept Landscape Plan No. LSK-001-B prepared by Context Landscape Architects dated 3 February 2011. The detailed landscape design shall include a full set of construction drawings and be prepared to a level of detail that will ensure the proposed landscape works can be properly constructed and adequately costed.

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

This certification and the Detailed Landscape Plan shall be submitted to the Accredited Certifier for approval prior to the issue of the Construction Certificate.

8. Design and Construction of Works in Public Areas

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

- a) Removal of all redundant layback crossings and reconstruction with integral concrete kerb and gutter.
- b) Construction of a footpath along the Auburn Street frontage, extending to the existing footpath located in Princes Highway and the existing footpath fronting property No. 38 Auburn Street.
- c) Demolition of the existing footpath and construction of a new footpath, along the Princes Highway frontage.
- d) Regrading, topsoiling and turfing of the footpath area to final design levels across the full frontage of the site and across adjacent properties where existing levels are altered and to all disturbed areas.

An application under the Roads Act, together with the necessary fee, shall be submitted and alignment levels shall be issued by Council, prior to the issue of a Construction Certificate. Approval under the Roads Act cannot be granted by a Principal Certifying Authority or by a Private Certifier. Failure to obtain approval may result in enforcement action by Council

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

Conditions Relating to Works in the Road Reserve

These conditions are imposed to ensure that adequate road works are provided to minimise the adverse effect of traffic generated by the development.

9. Access Application

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

10. Nomination of Engineering Works Supervisor

Prior to the issue of a Construction Certificate, the applicant shall nominate an appropriately accredited certifier to supervise all public area

civil and drainage works to ensure that they are constructed in compliance with Council's current "Specification for Civil Works Associated with Subdivisions and Developments".

The engineer shall:

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

Public Utility Authorities Requirements

These conditions are imposed to avoid problems in servicing the development and reduce adverse impacts on the lot layout or the design of buildings or associated facilities.

11. Public Utilities

Arrangements shall be made with Energy Australia in relation to:

- a) The necessity for the provision of underground low voltage electricity conduits within the footway area of Acacia Road, Princes Highway and Auburn Street.
- b) The need for the provision of a kiosk-type substation.

12. Sydney Water - Referral Requirements

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

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

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

13. Public Utility Authorities

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

14. Parking Areas and Vehicular Access

The on-site vehicular manoeuvring, parking and servicing facilities shall comply with AS2890.1, AS2890.2 and AS2890.6, in relation to the design of vehicular access, parking and general manoeuvring.

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

- a) A sign shall be provided adjacent to the entrance to the southern driveway, directing visitors to the basement car park and indicating its availability for their use.
- b) The loading/unloading area, ambulance bay and accessible parking spaces shall be clearly defined with suitable signposting and pavement markings.
- c) The basement car park shall be line marked sufficient to accommodate 43 vehicles.
- d) The internal driveways outside of the basement car park shall be paved using materials other than plain or exposed aggregate concrete.
- e) The accessible parking spaces shall be relocated together to the area occupied by parking spaces 38 and 39 and designed to accommodate a shared area and bollard.

A Compliance Certificate issued by an appropriately accredited person to the effect that these design requirements have been met shall accompany the Construction Certificate.

15. General Engineering Condition 1 - Drainage Construction

The stormwater drainage on the site is to be constructed generally in accordance with the plan 091732 SKC01 Rev P2 prepared by Taylor Thomson Whitting dated 23 December 2010. Certification by a suitably qualified engineer of the above plan is to be submitted to the Principal Certifying Authority stating that the design fully complies with Sutherland Shire Development Control Plan 2006 (Chapter 8 - Ecologically 'Sustainable Development'; Section 5 - 'Stormwater Management'), Sutherland Shire Environmental Specification – Stormwater Management and AS-3500.3 2003. The plans and certification shall be submitted prior to the issue of the Construction Certificate.

16. General Engineering Condition 2 - Traffic Management Plan

Prior to submission to the principle certifying authority, a traffic management plan for the demolition and construction stages of the

development is to be submitted to and approved by Council's Consultative Traffic Forum. This traffic management plan shall be prepared a suitably qualified person. The plan is to detail construction vehicle routes, numbers of trucks, hours of operation, access arrangements and what provisions have been made to reduce the impact on both pedestrian and vehicular traffic on the surrounding streets. A certification completed by a suitably qualified person shall be submitted stating full compliance with AS-1742.3 2002. The plan and certification shall be submitted to the Principal Certifying Authority prior to the issue of the construction certificate.

17. General Engineering Condition 3 - Pre-development Dilapidation Report

A Dilapidation report must be conducted by a suitably qualified engineer, prior to the commencement of any demolition, excavation or construction works. The extent of the survey must cover all Council infrastructure in the road reserve fronting Acacia Road and Auburn Street and any structures that have the potential to be affected by any excavation works including dewatering, and/or construction works including vibration. The initial dilapidation report must be submitted to the Principal Certifying Authority, prior to issue of a Construction Certificate.

18. General Engineering Condition 4 - Construction Methodology Report

Where there are structures that have the potential to be affected by any excavation works including dewatering and/or construction works including vibration, a suitably qualified engineer must prepare a Construction Methodology report:

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

The report must be submitted to the Principal Certifying Authority, prior to issue of a Construction Certificate. The development works are to be undertaken in accordance with the recommendations of the Construction Methodology report.

19. General Engineering Condition 5 - Site, Soil & Water Management Plan

A Site, Soil and Water Management Plan shall be prepared by a suitably qualified consultant and submitted to the Principal Certifying Authority, prior to the issue of the construction certificate. The plan shall be completed in accordance with the guidelines set out in Part 3 of Chapter 8 of Sutherland Shire Development Control Plan 2006, Sutherland Shire Environmental Specification 2007 - Environmental Site Management and the manual "Managing Urban Stormwater, Soils and Construction Fourth Edition 2004 Volume 1" prepared by LANDCOM.

The Site, Soil and Water Management Plan must detail:

- a) The actions and works that are to be employed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and deliveries.
- b) The proposed method of loading and unloading excavation machines and building materials.
- c) Areas within the site to be used for the storage of excavated material, construction materials and waste containers during demolition and construction.
- d) How it is proposed to ensure that material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways.
- e) The provision of temporary fencing to secure the work site (fencing, hoarding or awnings over public land require Council approval under the Roads Act).
- f) Provision for on-site parking for construction workers vehicles and construction vehicles.

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

20. Cleanliness and Maintenance of Food Preparation Areas

To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all building work in connection with the occupation or use of the premises intended for the preparation and storage of food shall be designed and implemented in accordance with the requirements of:

- i) Food Act 2003.
- ii) Food Regulation 2004.
- iii) Food Safety Standards 3.1.1, 3.2.2 and 3.2.3.
- iv) AS 4674 – 2004 (*Design, construction and fit-out of food premises*).
- v) Sydney Water Corporation - Trade Waste Section.
- vi) Protection of the Environment Operations (Clean Air) Regulation, 2002.
- vii) AS 1668 Part 1- 1998.
- viii) AS 1668 Part 2 – 1991.

Certification to this effect shall be provided by an appropriately qualified person and this shall accompany the Construction Certificate.

21. Cleanliness and Maintenance of Hairdressing, Beauty and Skin Penetration Operations

To ensure that adequate provision is made for the cleanliness, hygiene and maintenance of all hairdressing, beauty and skin penetration

operations, all work associated with the fit-out of the premises shall be designed and implemented in accordance with the requirements of:

- a) The Local Government (General) Regulation 2005.
- b) The Building Code of Australia.
- c) The NSW Health Guidelines on Skin Penetration.
- d) Public Health (Skin Penetration) Regulations 2000.

Certification to this effect shall be provided by an appropriately qualified person and this shall accompany the Construction Certificate.

22. External Lighting - (Amenity)

Any lighting on the site shall be designed so as not to cause a nuisance nor adverse impact on the other residents of the surrounding area nor to motorists on nearby roads. All external lights shall be designed in accordance with Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting.

23. Building Ventilation

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

- a) The Building Code of Australia.
- b) AS 1668 Part 1 - 1998.
- c) AS 1668 Part 2 - 1991.
- d) The Public Health Act - 1991.
- e) The Public Health (Microbial Control) - Regulation 2000.
- f) AS 3666.1 - 2002.
- g) AS 3666.2 - 2002.
- h) AS 3666.3 - 2000.

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

24. General Amenity Condition 1 - Noise

To minimise the impact of noise from the adjoining major road on occupants, the building shall be constructed in accordance with the recommendations of the acoustic report by Acoustic Logic, dated 20 December 2010, submitted with the development application.

Details of the proposed acoustic treatment shall accompany the Construction Certificate.

Energy Efficiency

These conditions are imposed to ensure that development is energy efficient and is designed and constructed using appropriate materials and appliances

to maximise the use of sustainable energy sources (such as sunlight) and use energy more efficiently.

25. Energy Efficiency - Sustainable Building Materials

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

BCA Fire Safety Conditions

The following conditions have been imposed for the purpose of ensuring that the proposed development meets BCA fire safety requirements.

26. Submission of Fire Safety Schedule

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

PRE-COMMENCEMENT CONDITIONS

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

27. Pre-Commencement - Notification Requirements

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

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

28. Signs to be Erected on Building and Demolition Sites

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

the principal contractor.

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

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

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

29. Appointment of a Supervising Arborist

Prior to the commencement of any demolition or works on site the applicant shall engage a suitably qualified and experienced Arborist (a person with current membership of the National Arborists Association of Australia at a grade of General Member, Affiliate Member or Life Member or alternatively a person who has obtained a TAFE Certificate in Horticulture (Arboriculture) Level 2 or higher).

The Supervising Arborist shall:

- a) Be present during any works within the dripline of any tree marked for retention and have the authority to direct works to ensure the trees long term preservation.
- b) Ensure any excavation within the dripline of the tree/s is hand dug and to oversee works and strictly supervise that there is no disturbance or severing of roots greater than 50mm and to cleanly cut and treat those roots between 10-50mm in diameter.

CONSTRUCTION CONDITIONS

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

30. Permitted Hours for Building and Demolition Work

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

31. Toilet Facilities

Toilet facilities shall to be provided, at or in the vicinity of the work site on

which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

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

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

32. Demolition Work

To ensure that demolition of structures is carried out in an environmentally acceptable and safe manner:

- a) The demolition of the existing buildings shall be carried out strictly in accordance with Australian Standard 2601 - The Demolition of Structures.
- b) It is the applicant's responsibility to notify Council of any existing damage to public areas in the vicinity of the development site through the submission of a dilapidation report supported with suitable photographic records. This information shall be submitted to Council prior to the commencement of work. Any damage other than that noted prior to commencement of the demolition shall be the responsibility of the owner of the property for repair or reinstatement.
- c) If demolition is to commence prior to the issue of a Construction Certificate, the applicant shall submit a Site Management Plan to Council, prior to the commencement of any demolition work. This plan shall satisfy the objectives of Part 3 of Chapter 8 of Sutherland Shire Development Control Plan 2006 and consider the following:
 - i) What actions and works are proposed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from demolition activities and crossings by heavy equipment and plant;
 - ii) The proposed method of loading and unloading demolition machines within the site;
 - iii) The proposed areas within the site to be used for the storage of demolished material and waste containers during the demolition period;
 - iv) How it is proposed to ensure that soil/demolished material is

not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways.

33. Demolition – Removal of Asbestos Material

To ensure that the removal and transportation of any asbestos material from the premises is carried out in an environmentally acceptable and safe manner, all work shall comply with the following:

- a) Occupational Health and Safety Act 2000;
- b) Occupational Health and Safety Regulation 2001;
- c) Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC:2002(2005)];
- d) Workcover NSW 'Working with Asbestos – Guide 2008'; and,
- e) Protection of the Environment Operations Act 1997.

Should works involve the removal of more than 10 square metres of asbestos material, a bonded asbestos licence is required. A friable asbestos licence is required to remove, repair or disturb any amount of friable asbestos. For further information contact the NSW Workcover Authority. Asbestos waste in any form shall be disposed of at a waste facility licensed by the Department of Environment Climate Change & Water to accept asbestos waste.

The applicant shall notify Council's Environment & Health Regulation Unit (phone (02) 97100333 during normal business hours) of any proposed removal of asbestos material not less than 72 hours prior to the commencement of the work.

34. Imported 'Waste Derived' Fill Material

In order to ensure that imported fill is of an acceptable standard for environmental protection purposes:

- a) The only waste derived fill material that may be received at the development site shall be:
 - i) Virgin excavated natural material (within the meaning of the Protection of the Environment Operations Act 1997).
 - ii) Any other waste-derived material the subject of a resource recovery exemption under cl.51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.
- b) Any waste-derived material the subject of a resource recovery exemption received at the development site shall be accompanied by documentation as to the material's compliance with the exemption conditions and shall be provided to the Principal Certifying Authority on request.

35. Noise Control during Construction and Demolition

To minimise the impact on the surrounding environment:

- a) For construction and demolition periods of four (4) weeks or less, the LAeq sound pressure level measured over a period of 15 minutes when the construction or demolition site is in operation, shall not exceed the ambient background level (LA90 15min) by more than 20dB(A) when measured at the nearest affected premises.
- b) For construction and demolition periods greater than four (4) weeks, the LAeq sound pressure level measured over a period of 15 minutes when the construction or demolition site is in operation, shall not exceed the ambient background level (LA90 15min) by more than 10dB(A) when measured at the nearest affected premises.

36. Site, Soil & Water Management

The measures described in the required Site, Soil & Water Management Plan shall be installed or implemented prior to commencement of any site works and continuously maintained during the period of demolition and construction.

37. Vibration Control

Any security door fitted to the basement car park entrance shall be independently mounted on rubber pads to prevent vibration noise transmission through the concrete walls and/or columns.

38. Disposal of Site Soils

All soils excavated from the subject site are to be classified under the NSW DECC Waste Classification Guidelines (2009). Testing is required prior to off site disposal.

All waste materials shall be removed to appropriately licensed waste facilities by a suitably qualified contractor in accordance with NSW DECC Waste Classification Guidelines (2009).

Note: Attention is drawn to Part 4 of the NSW DECC Waste Classification Guidelines (2009) which makes particular reference to the management and disposal of Acid & Potential Acid Sulfate Soils.

39. Dewatering of Excavation

Any water from excavations to be discharged to Council's stormwater system must meet the following criteria:

- It shall not contain a concentration of suspended sediment exceeding 50 mg/L;
- It shall have a pH of between 6.5-8
- It shall comply with the ANZECC Guidelines for Marine and Freshwater Quality, for Protection of Aquatic Ecosystems (95%

protection level)

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

Landscaping Requirements

These conditions are imposed to ensure the retention and enhancement of the existing landscaping.

40. Removal of Trees

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

- a) Any trees specifically identified in the consent "existing tree to be removed".
- b) Any trees growing within the building footprint of the approved structures.
- c) Any declared noxious plant. The applicant is to ensure that all noxious plants are properly identified and controlled/removed.
- d) Any tree species listed in Clause 57 of the SSLEP 2006 Council's Controls for Preservation of Trees and Bushland Vegetation.
- e) Any approved tree removals within the road reserve shall be organised in consultation with Council's Street Tree Manager
Phone: 9710 5773 or 0414 193944.

All other vegetation not specifically identified above, and protected by Council's Controls for Preservation of Trees and Bushland Vegetation shall be retained and protected from construction damage. These Controls for Preservation of Trees and Bushland Vegetation protects any vegetation unless written consent is obtained.

41. Tree Retention and Protection

The following additional trees as marked on the site survey plan prepared by Beuthen de Nett Pty Ltd dated 30 January 2002 and identified in the Arborists prepared by Paul Lavery dated December 2010 shall be retained and protected.

Tree No.	Tree Species (botanical and common name)	Location on site
Tree 50	Corymbia maculata (Spotted Gum)	South west corner
Tree 51	Angophora costata (Smooth Barked apple)	South west corner
Tree 52	Corymbia maculata (Spotted Gum)	South west corner

These trees identified for retention shall be protected by the following measures:

- a) Protective fencing constructed of 1.8m high chain wire mesh supported by robust posts shall be installed at a minimum radius of 3m from the trunk of each tree referenced above. This fencing shall be installed prior to the commencement of any works subject to this consent and remain in place until all works are completed. Signage shall be erected on the fence with the following words clearly displayed "TREE PROTECTION ZONE, DO NOT ENTER".
- b) The tree protection zone within the protective fencing shall be mulched with a maximum depth 75mm of suitable organic mulch (woodchips or composted leaf chip mulch) and kept regularly watered for the duration of the works subject to this consent.
- c) No development or associated activity is permitted within the fenced tree protection zone for the duration of works subject to this consent. This includes vehicular or pedestrian access, sheds, washout areas, excavations, backfilling, installation of services (including stormwater), removal of top soil, stockpiling of soil or building materials.
- d) Any approved works within this tree protection zone shall be under the direction of, and to the satisfaction of, a suitably qualified and experienced Arborist.

42. Compliance with Arborist Report

All trees marked for retention on the approved Landscape Plan No. LSK-001-B prepared by Context Landscape Architects shall be retained and protected in accordance with section 3.5 Tree Protection Measures of the Arborist Report prepared by Paul Laverty Consulting Arborist dated December 2010.

POST CONSTRUCTION CONDITIONS

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

43. Section 73 Compliance Certificate

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

Advice from Sydney Water: An application must be made through an authorised Water Servicing Coordinator. For details see the Sydney Water web site at www.sydneywater.com.au/customer/urban/index or by telephone 13 20 92.

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water /

sewer extensions can be time consuming and may impact on other services as well as building, driveway or landscaping design.

44. Works As Executed Information

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

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

45. Works As Executed Drawings

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

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

46. Completion of Work on Public Land

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

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

47. Validation Reporting

Certification from an appropriately qualified person verifying that the site

has been fully remediated in accordance with the recommendations outlined in the application documentation, prepared by URS, Project No. 43218222, dated 04 February 2001, shall be completed and submitted to Council within 30 days of the completion of the remedial works.

Need for Certification

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

48. Set out of Building

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

49. Food

Certification from a suitably qualified person that all work in connection with the occupation or use of the premises, for the preparation, display and storage of food, has been carried out in accordance with the terms of this development consent.

50. Noise Emission – Equipment

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

51. Hairdressing, beauty treatment and skin penetration

Certification from the Principle Certifying Authority that all work in connection with the occupation or use of the premises, for hairdressing, beauty treatment or skin penetration, has been carried out in accordance with the conditions of this development consent.

52. Mechanical or Natural Ventilation

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

53. General Compliance

Certification from the Principal Certifying Authority that all works have been completed and comply with the approved plans, conditions and specifications.

54. Acoustic Works - Report

To ensure all acoustic work has been completed, certification shall be

provided upon completion of the works, accompanied with evidence in the form of a report from a suitably qualified practicing acoustic engineer, to the effect that the acoustic attenuation has been carried out in accordance with this development consent. The report shall include all post construction validation test results.

55. Energy Efficiency - Sustainable Building Materials

Certification from the Principal Certifying Authority that the building has been constructed using materials in accordance with the *Sutherland Shire Environmental Specification 2007 - Sustainable Building Materials*.

56. Completion of Landscaping

Certification shall be provided from a suitably qualified and experienced Landscape Designer or Landscape Architect, within three months after the issue of the Final Occupation Certificate for the development. This Certification shall verify that the landscape works have been completed to the stage of practical completion in accordance with the approved detailed landscape plan and relevant conditions of this consent.

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

57. Tree Preservation

Certification shall be provided from a suitably qualified and experienced Arborist within three months after the issue of the Final Occupation Certificate for the development. This Certification shall verify that tree preservation has been completed in accordance with the approved plans and relevant conditions of this development consent.

Note: An Arborist is a person with current membership of the National Arborists Association of Australia at a grade of General Member, Affiliate Member or Life Member or alternatively a person who has obtained a TAFE Certificate in Horticulture (Arboriculture) Level 2 or higher.

58. Prior to Occupation or Use of the Development

The Development shall not be occupied or used until:

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

59. Registration requirements

Occupation of the premises shall not occur until a registration application has been submitted to Council's Environment and Health Regulation

Department for the:

- a) Food
- b) Salon.
- c) Warm water system.

60. Restrictions on Occupation

Prior to issue of any occupation certificate, a restriction as to user shall be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, limiting the use of the housing accommodation to the following kinds of people only:

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

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

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

OPERATIONAL CONDITIONS

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

61. Carparking Areas

To ensure that the basement car parking area satisfies the demands of the development, it shall be made available on an unrestricted basis, at all times, for employees' and visitors' vehicles. In the event of a security door being provided at the basement car park entrance or a security gate being provided at any point along the associated driveway, suitable measures (such as intercom/remote control access systems, key/card access systems and restrictions on the periods of closure of the security door/gate) are to be implemented, so as to ensure that any such security door/gate does not restrict access to any employees or visitors.

62. Loading and Unloading

In the interests of public safety and amenity, all delivery and collection

vehicles servicing the development shall stand within the on-site service area whilst being unloaded and loaded and shall be able to be driven in a forward direction when entering and leaving the site.

63. External Lighting

All external lights shall be operated and maintained in accordance with the Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting, so as not to cause a nuisance or adverse impact on the amenity of residents of the surrounding area nor to motorists on nearby roads.

64. Noise Control - Offensive Noise

To minimise the noise impact on the surrounding environment, the use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment Operations Act 1997.

65. Ventilation – Operation

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

- a) The Building Code of Australia.
- b) AS 1668 Part 1 - 1998.
- c) AS 1668 Part 2 - 1991.
- d) The Public Health Act - 1991.
- e) The Public Health (Microbial Control) - Regulation 2000.
- f) AS 3666 - 2002.
- g) AS 3666.2 - 2002.
- h) AS 3666.3 - 2000.

66. Bus Service Provision

A bus service shall be provided, specifically for the purposes of transporting residents to and from off-site services and facilities, as part of the operations and on a permanent basis.

67. Restrictions on Occupation

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

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

For the purposes of this condition, "seniors" are people aged 55 or more years, people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 of the Commonwealth) is

provided and people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

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

68. Resident Population

The permanent resident population of the building shall not exceed 144 persons, at any time.

69. Medical Waste

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

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

70. Collection/Delivery Services

To minimise the noise impact of the development on the surrounding environment, the collection and delivery of goods and materials (including garbage and recycling waste) associated with the use shall not take place between the hours of 10.00pm and 8.00am on any day.

END OF CONDITIONS