

**JOINT REGIONAL PLANNING PANEL
(SYDNEY REGION EAST)**

JRPP No	2011SYE058
DA Number	65/2011
Local Government Area	BURWOOD
Proposed Development	PROPOSED RESIDENTIAL DEVELOPMENT PURSUANT TO STATE ENVIRONMENTAL PLANNING POLICY NO. 5- HOUSING FOR AGED PERSONS OR PERSONS WITH A DISABILITY STAGED RE-DEVELOPMENT OF FORMER WESTERN SUBURBS HOSPITAL SITE
Street Address	8-10 BRIGHTON STREET CROYDON
Applicant/Owner	CATHOLIC HEALTH CARE LIMITED
Number of Submissions	326 SUBMISSIONS 2 PETITIONS WITH 849 & 109 SIGNATURES RESPECTIVELY
Recommendation	APPROVAL SUBJECT TO CONDITIONS
Report by	BRIAN OLSEN - MANAGER BUILDING & DEVELOPMENT

No 8-10 Brighton Street, Croydon DA 65/2011 – Proposed Residential Development pursuant to State Environmental Planning Policy No. 5 - Housing for Aged People or People with a Disability (SEPP 5). Staged Re-Development of the Former Western Suburbs Hospital Site - Masterplan DA 279/2002.

File No BD.2011.065 Pt 3

Report of Manager of Building & Development

Applicant: Catholic Health Care Limited
Location: Eastern side of Brighton Street extending through to Croydon Avenue between Liverpool Road and Arthur Street
Zoning: Part Special Use 5(a) (Hospital), Part Reservation (3a) Special Use (Hospital), Burwood Local Environmental Plan (LEP) 19 – Heritage pursuant to Burwood Planning Scheme Ordinance (BPSO) 1979

Proposal

The subject DA 65/2011 is for the construction of the third stage of the re-development of the former Western Suburbs Hospital site for seniors housing or people with a disability pursuant to the provisions of SEPP 5, and consists of:

- 2 x 2 storey, 2 x Pt 4/6 storey and 1 x Pt 5/6 storey buildings
- 123 dwellings – 13 x 1 bedroom, 70 x 2 bedroom, 40 x 3 bedroom
- 155 car spaces – 140 within basement, 15 external spaces (for visitors, an ambulance and a mini-bus space)
- Floor area of 15,163m²
- Building heights with RL's as detailed
- Vehicle ingress/egress – one each (2 way) on both Brighton Street and Croydon Avenue
- Landscaping and site works
- Removal of a number of existing trees

This application seeks consent pursuant to Section 83B of the Environmental Planning & Assessment Act 1979 subsequent to the Stage 1 Development Consent 279/2002 approved on 10 December 2002, as modified by a Section 96 Modification application, approved on 25 June 2004. The development is also lodged pursuant to State Environmental Planning Policy No.5 Housing for Aged People or People with a Disability (SEPP 5) that has been repealed but contains transitional provisions that enables a staged development consent to continue to apply as if it had not been repealed.

Background

- A On 10 April 1995, DA 240/1994 was approved by Council for a new Hospital complex on the subject Western Suburbs Hospital site. The existing buildings were demolished and site works commenced. A change in the NSW Government, relocated the proposal to the Canterbury Hospital site. The land remained vacant until works related to DA 279/2002 commenced.

- B DA 279/2002, a Crown application by Health Administration Corporation (NSW Department of Health) was lodged with Council in September 2002, and consisted of a Masterplan for a Community Health Centre, a Nursing Home and Hostel and dwellings for older persons and persons with a disability, pursuant to State Environmental Planning Policy No. 5 Housing for Older People or People with a Disability (SEPP No 5). The proposal also included refurbishment of the heritage listed cottage at the corner of Brighton Street and Liverpool Road, site works, landscaping, 400 car parking spaces, shops to service the occupants, and building envelopes.

The Community Health Centre was Part 1 and 2 storey in height, the Nursing Home and Hostel Part 1, 2 and 3 storey, and the SEPP 5 housing Part 4 and 5 storeys, with maximum building heights and envelopes indicated on the plans as reduced levels (RL's).

Following public notification of 3000 households, a public meeting was held in Council's Chambers, and attended by 40 persons. Council received 45 individual submissions, 4 pro-forma submissions, and a submission from J Murphy MP, the then Federal Member for Lowe (now Reid)

A detailed assessment report on the development application was prepared and addressed issues raised including SEPP No 5 provisions, in regard to landscaped area, height, design principles of the development, neighbourhood amenity and streetscape, access and distance to services (shops, parks, medical and community facilities, parking and traffic generated and heritage issues). The proposal was referred to the Sydney Regional Development Advisory Committee of the RTA under SEPP No 11 – Traffic Generating Development for its comment. The RTA recommended approval of the application, with road widening of Croydon Avenue (at the intersection) to provide a slip lane, an exclusive right turn, and a through lane at the intersection of Liverpool Road and Croydon Avenue. Further, the traffic signals (lights) were to be modified accordingly.

The impact on the heritage items within and around the site, as well as the urban design issues were also considered.

Council, on 13 December 2002, granted development consent to DA 279/2002 Masterplan as follows:

- A part 1, part 2 storey Community Health Centre with a maximum floor area of 4000m².
- A part 1 part 2 part 3 storey Nursing Home and Hostel containing 127 beds and having a maximum floor area of 8500m²
- Dwellings for older persons or persons with a disability pursuant to the provisions of State Environmental Planning Policy No 5 (SEPP 5) – Housing for Aged Persons or Persons with a Disability being the Independent & Assisted Living Accommodation buildings and a maximum floor area 15000m² being part 4 part 5 storeys.
- A refurbishment and extension of the existing heritage listed cottage on the corner of Brighton Street and Liverpool Road.

- Shops and offices servicing the needs of occupants, visitors and staff of the site and having a maximum floor area of 150m²
- 400 car parking spaces associated with uses on the site, contained in 2 separate car parks and the construction of the northern car park for the community Health Centre and the Nursing Home and Hostel
- Associated site works and tree removal including drainage
- The building envelopes and heights as indicated on the submitted Masterplan Nos ADOM 1001 – 1004 inclusive
- Subdivision of the site into 5 allotments at ground level plus a stratum subdivision that includes the main northern most car park servicing the Community Health Centre and the Nursing Home and Hostel as indicated on drawing No's VD00001, VD000201 and VD000101
- The erection of a car parking structures in accordance with drawing No's AD111101, AD114101, AD114201, AD130001 and AD133002

The housing for older persons consisted of 3 x Pt 4/5 storey buildings, with one building along Croydon Avenue, one along Brighton Street and a third between the two. The third building was proposed 18m from the southern boundary, and 36m from Croydon Avenue frontage.

- C Council, on 2 September 2003, granted development consent to DA 161/2003 for the construction of the Community Health Centre and the Nursing Home and Hostel, with a total of 202 car spaces provided. The works have been completed and buildings operating.

- D *Section 96 Modification – DA 279/2002*
 The application lodged by the Health Administration Corporation (Crown Application) proposed modifications to the buildings for aged persons, which involved 5 buildings in lieu of 3 buildings. The 5 buildings consisted of 2 x Pt 4/6 storeys, 1 x Pt5/6 storeys and 2 x 2 storey with maximum heights indicated as RL's. Two of the Pt 4/6 storey buildings were located immediately to the south of the Nursing Home and Hostel, with the 4 storey portion, facing Croydon Avenue and Brighton Street and a 6m setback/step up to 6 storeys, and a 5m setback from the street frontages. The 2 x 2 storey buildings were located to the south of the 2 x Pt 4/6 storey buildings along both Brighton Street and Croydon Avenue frontages. The third Pt 5/6 storey building was located between the 2 x 2 storey buildings, 24m from the southern boundary and approximately 36.5m from Croydon Avenue. Car parking is provided within a basement accessed from 2 driveways on Croydon Avenue, and one ingress and one egress driveways from Brighton Street.

Following public notification of the proposal, 9 submissions were received. The traffic, heritage, buildings heights and urban context issues were given consideration and Council, on 22 June 2004, granted Development Consent to the Section 96 modification as follows:

- A part 1, part 2 storey Community Health Centre with a maximum floor area of 4000m²
- A part 1 part 2 part 3 storey Nursing Home and Hostel containing 127 beds and having a maximum floor area of 8500m²
- Dwellings for older persons or persons with a disability pursuant to the provisions of State Environmental Planning Policy No 5 – Housing for Aged Persons and Persons with a Disability (SEPP 5) being the

independent & Assisted Living Accommodation buildings and having a maximum floor area of 15000m², being part 2, part 4 and part 6 storeys

- A refurbishment and extension of the existing heritage listed cottage on the corner of Brighton Street and Liverpool Road
- Shops and offices servicing the needs of occupants, visitors and staff of the site and having a maximum floor area of 150m²
- 400 car parking spaces associated with uses on the site, contained in 2 separate car parks and the construction of the northern car park for the Community Health Centre and the Nursing Home & Hostel
- Associated site works and tree removal including drainage
- The building envelopes and heights as indicated on the submitted Masterplan Nos ADOM1001 – 1004 Issue 4 dated 27.10.03 inclusive
- Subdivision of the site into 5 allotments at ground level plus a stratum subdivision that includes the main northern most car park servicing the Community Health Centre and the Nursing Home & Hostel as indicated drawing No's VD00002, VD000202 and VD000101
- The erection of car parking structures in accordance with drawings No's AD111101 (Issue 02), AD111101 (Issue 03), AD114101, AD114201, AD114301, AD133001

Additional specific conditions of the consent imposed (apart from standard conditions) were as follows:

- That the recommendations contained in the report dated 1 June 2004 from Council's Heritage Adviser be incorporated into the design of any future development application to be submitted to Council for the IALA buildings on the site.
- Traffic and speed counts to be undertaken on both Brighton Street and Croydon Avenue before and 6 months after the IALA development are constructed and occupied. Pending analysis of the data, traffic calming devices be installed on both streets. An undertaking is to be provided to Council, should it be reasonably demonstrated these works are necessitated.
- A parking review of Croydon Avenue and Brighton Street be undertaken once the development is in operation (6 months), to quantify on street parking by visitors and staff. An undertaking be provided to Council, should a parking scheme need to be developed for the area.
- Construction gates and entry be provided off Croydon Avenue in a safe location as per Council's requirements. There shall be no construction access to the site along Brighton Street, south of Patterson Place.
- That all vehicular access to and from the car park for the Independent & Assisted Living Accommodation buildings will be predominantly from Croydon Avenue and that only a single egress point permitted from Brighton Street, ideally from the north most point of this part of the development.

Statutory Requirements

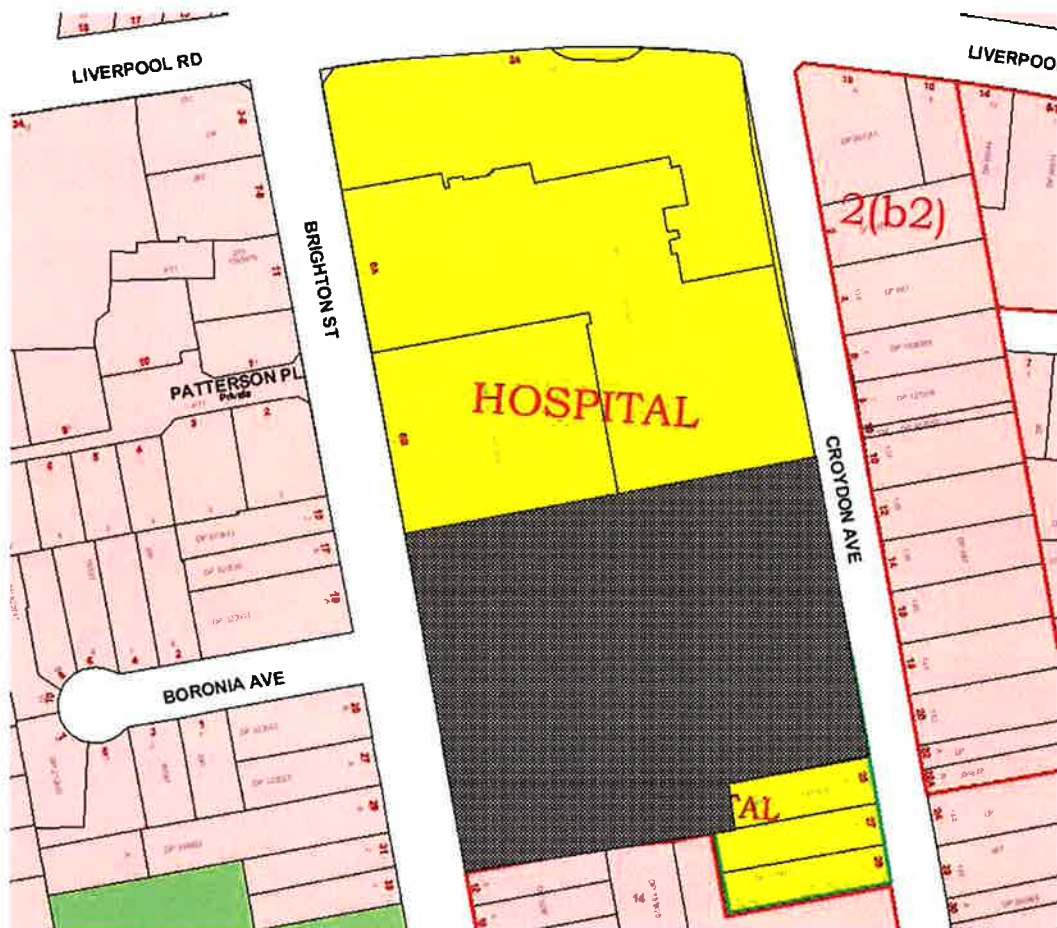
Heads of Consideration

The application is assessed under the provisions of Section 79C of the Environmental Planning & Assessment Act 1979, as amended, in conjunction with Development Consent granted to DA 279/2002 on 13 December 2002, and as modified under Section 96 of the EP&A Act 1979, on 22 June 2004.

The assessment included the following:

- The provisions of an environmental planning instrument – Burwood Planning Scheme Ordinance (BPSO) 1979.
- The provisions of State Environmental Planning Policy No 5 – Housing for Aged People and People with a Disability (SEPP 5).
- The provision of State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development (SEPP 65) and NSW Residential Flat Design Code.
- The impact of the development – including traffic/parking, solar access, amenity impacts, built environment, heritage, streetscape and crime prevention.
- Public interest and sustainability of the site for development.
- Submissions made under the Act and Regulations.

Locality Map



Site and Surrounding Area

The site, which this development application forms a part, under DA 279/2002 (known as No 24 Liverpool Road, Croydon), has frontage to Liverpool Road, Brighton Street and Croydon Avenue, and has a total area of 28858m². The Community Health Centre (stage1) and Nursing Home and Hostel (stage 2) have been erected and are operating.

The subject site of DA 65/2011, for construction of the residential development, has an area of 12,045m², a northern boundary of 121.96m with the Nursing Home, eastern frontage of 90.38m to Croydon Avenue, western frontage of 102.95m to Brighton Street, and southern "stepped" boundary of 121.68m. The land is vacant and has a fall of approximately 5.5m – 6m from its northern to its southern boundary.

The surrounding area is predominantly one and two storey dwelling houses to the south, east, west and north of Liverpool Road. The Community Health Centre and Nursing Home are Pt1, 2 and 3 storeys in height.

The subject site is listed as a heritage item under BLEP No 19. A 2 storey Victorian building, located to the west, No 34 Liverpool Road, Croydon Street, St Joseph's Convent and former Orphanage is listed as a heritage item. Properties to the west of the site, Nos 1-7 and 2-10 Boronia Avenue are within the Boronia Avenue Conservation Area. No 25 Croydon Avenue, located at the southern eastern corner, adjacent to the site, is listed as a heritage item. No. 25 Croydon Avenue was previously part of the site, however, has since been sold by the Health Administration Corporation. The Malvern Hill Conservation Area is located to the north of Liverpool Road.

Keith Smith Park is located on the western side of Brighton Street and located to the south west of the site.

Zoning

The subject site is zoned part Special Use 5(a) (Hospital), and part Reservation 3(a) Special Use (Hospital) under BPSO 1979.

Properties on the south side of the site are zoned Residential 2(b1), whilst Nos. 25, 27 and 29 Croydon Avenue area zoned Reservation 3(a) Special Use (Hospital) under BPSO 1979.

Properties to the east, across Croydon Avenue, area zoned Residential 2(b2). Properties to the west, across Brighton Street are zoned Residential 2(a) and properties to the north of Liverpool Road are zoned Residential 2(a).



Zoning Map



Heritage Map

Assessment

Burwood Planning Scheme Ordinance (BPSO) 1979

BPSO 1979 does not contain any development standards applicable to the special use zones, nor is there a specific DCP controlling development.

The conditions of consent of the Masterplan of DA 279/2002 and its subsequent Section 96 Modification provided the parameters for the proposed housing for aged persons or persons with a disability. These applications were assessed against the development standards of SEPP 5, State Environmental Planning Policy No 11 – Traffic Generating Development (SEPP 11), through the Sydney Regional Development Advisory Committee of the RTA, heritage, building, building envelope, bulk height and scale issues, overlooking and privacy of adjoining properties, landscaping and open space provision.

The parameters include those identified under the heading “Section 96 Modification – DA 279/2002” approved by Council on 25 June 2004, and associated conditions of consent.

The Table below compares the approved DA 279/2002 as modified, and the current DA 65/2011:

Parameters	DA 279/2002 (as modified)	DA 65/2011 (Proposal)
Maximum Floor Area	15,000m ²	15,163m ²
Density of Dwelling	No requirement	13x1 bedroom, 70x2 bedroom, 40x3 bedroom
Number of Buildings	2 x 2storey (Blocks A & E) 2 x Pt 4 and 6 storey Bocks B &D 1 x Pt 5 and 6 storey Block C	2 x 2 storey (Blocks A&E) 2 x Pt 4 and 6 storey (Blocks B&D) 1 x Pt 5 and 6 storey (Block C)
Maximum Height Levels	Block A – RL 30.7-32.7 (varies) Block B – RL 38.0 (Pt 4 storey) RL 44.5 (Pt 6 storey) Block C – RL 44.5 (Pt 6 storey) Block D – RL 38.0 (Pt 4 storey) RL 44.5 (Pt 6 storey) Block E - 29.7-32.7 (varies)	RL 30.9-34.0 (Pitch Roof - varies) RL 38.0 (Pt 4 storey) RL 44.5 (Pt 6 storey) RL 44.5 (Pt 6 storey) RL 38.0 (Pt 4 storey) RL 44.5 (Pt 6 storey) RL 30.9-34.0 (Pitch roof – varies)
Building Setbacks		
a) Brighton Street	5m – Blocks A & B 35.5m – Block C	5m – Bocks A & B 36m – Block C
b) Croydon Avenue	5m – Blocks D &E 35.6 – Block C	5.3m – Blocks D & E 35.75m – Block C
c) South Boundary		
i) No 25 Croydon Avenue	7.5-9m – Block A 10m – Block C	10.68-13m – Block A 10m – Block C
ii) Eastern 'stepped' portion	22-24m – Block C 3.5-6m – Block E	22-24m – Block C 14m at its closest point – Block E
Vehicle Ingress/Egress		
a) Brighton Street	1 ingress between Blocks D & E 1 egress adjacent to southern boundary	Combine ingress/egress adjacent to southern boundary with 12 Brighton Street
b) Croydon Avenue	2 ingress/egress between Blocks A & B, and adjacent to southern boundary with No 25 Croydon Avenue	Combined ingress/egress adjacent to southern boundary with No 25 Croydon Avenue
No of Parking Spaces	198 available for this Stage 3 (Provision for a bus service and ambulance)	155 spaces (includes 4 staff spaces, mini bus, ambulance, 10 visitors)

Maximum Floor Area

The approved maximum floor area under DA 279/2002 is exceeded by 163m² i.e. 15,163m² in lieu of 15,000m². This additional floor area represents 1.08% variation, which is considered to be a minor variation only.

Building Envelopes and Heights

The proposed buildings are generally consistent with the approved maximum heights (RL) under DA 279/2002, as modified. The 6 storey buildings (Blocks B, C and D) satisfy the maximum RL 44.5m height.

Variations between 0.2m and 1.3m in height of the 2 storey buildings (Blocks A and E) along Brighton Street and Croydon Avenue, are due to the proposed pitched tile roof(s) in lieu of a flat roof(s) as originally approved. The pitched roof is considered more in keeping with the roof pitches of surrounding development and does not create additional impact on the adjoining properties. This minor variation it is not considered to be significant and no objection is raised accordingly.

Building Setbacks and Locations

The proposed setback and location of the buildings, from the street frontages and southern boundary are consistent with the approved DA 279/2002 as modified. Blocks A and E have an increased setback from the Southern boundary i.e. additional 3.15-4m and 8m respectively. This is a variation to the original approval however the increased building setback to the southern boundary is a significant improvement for adjoining properties to the south.

Car Parking Provision

The approval for DA 279/2002, as modified, allowed a total of 400 off-street car spaces for the whole development i.e. Heath Care Centre, Nursing Home and Hostel and Aged Persons housing. The Health Care Centre and Nursing Home have a total of 202 car spaces and 198 spaces are available for the subject development. The 155 spaces provided satisfy SEPP 5 and includes a mini bus, an ambulance bay and 13 visitor spaces. The traffic generated by the development and number of ingress/egress driveways, visitor and staff parking are further discussed in the latter portion of this report under heading "Traffic and Car Parking".

SEPP (Housing for Seniors or People with a Disability) 2004

The development provides housing for independent seniors (55 years and over) or persons with a disability, and the 123 dwellings area all self-contained i.e. either 1, 2 or 3 bedrooms and associated kitchen, dining, living, bath and laundry facilities. The ground level of Block B provides for a Community Centre with a management office, library, consulting rooms, swimming pool, hairdresser, cinema, community activity room, common kitchen and dining room. The facilities would assist in the future resident's social and recreational activities.

The current application has been assessed under SEPP (Housing for Seniors or People with a Disability) 2004 and complies with the access and service provisions.

SEPP No 5 Housing for Older People and People with a Disability

The subject application is assessed under SEPP No 5 notwithstanding it has been repealed. Clause 6 of the current legislation SEPP (Housing for Seniors or People with a Disability) 2004 contains certain transitional arrangements relevant to this application. It provides that State Environmental Planning Policy No 5- Housing for Older People and People with a Disability, as in force immediately before its repeal by the SEPP (Housing for Seniors) 2004, continues to apply to and in respect of the following as if it had not been repealed:

(b) any development application, whether made before or after the commencement of this Policy, that relates to development for which a development consent was granted under the Policy as referred to in section 80 (4) of the Act...

The development application relates to development for which development consent was granted under the Policy as referred to in section 80(4) of the Act, as it then was, and consequently the provisions of SEPP 5 apply to this application.

Clause 12(3) of SEPP No 5 requires that the consent authority must be satisfied that any facility or service provided as a part of the development will be available to residents when the housing is ready for occupation. In the case of a staged development, the facilities or services may be provided proportionately according to the number of residents in each stage. In this regard, it is noted that the community centre on the site will be provided during the first stage, and thus will be available for all residents as they move in.

Clause 12(4) requires that the consent authority must not consent to a development application for housing for older persons unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage. The site is located within a built up area of metropolitan Sydney and will be connected to Sydney Water's water and sewer services.

Clause 13 contains certain development standards that apply to the processed development. Of relevance to this application is that a consent authority must not consent to a development application unless the site frontage is at least 15 metres wide. The site complies with this requirement.

Clause 13A of SEPP No 5 provides standards for access and useability. It provides that a consent authority must not consent to a development application unless it complies with the standards specified. The applicant has made a detailed assessment of the development in comparison with the requirements contained in Clause 13A of SEPP 5. The main components are contained in the table below. The Access report contained in the Appendix of the Statement of Environmental Effects submitted with the application assesses the proposed development under more recent provisions of the SEPP (Seniors Living) 2004.

Clause 25 of SEPP No 5 contains a requirement that consent must not be granted for development under the policy unless the consent authority is satisfied that the proposed development demonstrates that adequate regards has been given to a number of design principles. These principles are set out in the following table together with an assessment of compliance of the proposed development.

Clause 13A - SEPP 5			
Development Control	Requirement	Proposed/Submitted	Compliance
Self contained dwellings	Dwellings with private facilities – cooking, sleeping, washing, bathing, etc	Yes	Yes
Access to services			
- shops, care, recreational, medical	400m	CHC manages and arranges within community centre	Satisfactory
- Public Transport	400m	Yes	Yes
- Access pathway	Wheelchair or motorised cart	Yes	Yes
Water and sewer services	Water supply and sewer disposal	Yes	Yes
Site criteria:			
a. Frontage width	15m	Min. 90.38m	Yes
b. Wheelchair access	<ul style="list-style-type: none"> Gradients Road access Common areas Adaptability 	Yes Yes Yes Not identified	Yes Yes Yes Can be conditioned
c. Security	Pathway lighting	Yes	Yes
d. Letterboxes	Lockable, control location, hard standing area	Yes	Yes
e. Car parking accommodation	6m x 3.2m bays	Yes	Yes.
f. Accessible entry	Comply with AS 4299	Yes	Yes
g. Corridor and internal door width	Min. 820mm (doors) Min. 1.2m corridors	To be complied with details	Yes
h. Room sizes & furniture, fixtures and access	Living/Dining room kitchen, bedroom, toilet	Yes and will comply with details	Yes
Site analysis	Needs to address surrounds, uses, zoning, design of proposal in regard cl.25 Design Principles (following)	Yes	Yes

Clause 25 – SEPP 5			
Neighbourhood amenity and streetscape			
a. Character	2 and 3 storey development	2, Pt 4/5 and Pt 6	No
b. Heritage issues	Complement and harmonise	Attempts to harmonise	Yes
c. Setbacks	To reduce bulk and overshadowing	Yes	Yes
d. Building heights at street frontage	Compatible in scale with adjacent development	2 storey – Yes Pt 4/5 and Pt 6 –	Yes Masterplan Approval
e. Building form and siting	Relates to land form	2 storey – Yes Pt 4/5 and Pt 6 –	Yes Masterplan Approval
f. Landscaping	As per streetscape	Yes	Yes
g. Major existing trees	Be retained	Yes	Yes
h. Landscape site total	1885m2	6197m2 with 2557m2 deep soil	Yes
Visual and acoustic privacy			
a. Visual	Site planning, location of windows, balconies and screening	Yes	Yes
b. Noise	Acceptable noise levels – location of parking and driveways	Driveways and parking need to be set back further from adjoining southern properties	Conditions of consent
Solar access & design for climate	a. Ensure adequate daylight to living areas and open space of neighbours	Yes	Yes
	b. Re-cycle stormwater for reuse, solar heating	BASIX Certificate provided – Condition for water re-use	Conditions of consent
Crime preventions	Ensure safety of residents and prevent crime potential	Yes	Yes
Waste management	Maximises recycling	Yes	Yes
Accessibility	a. Safe pedestrian links	Yes	Yes
	b. Public transport services	Yes	Yes
	c. Safe environment	Yes	Yes
	d. Continuous accessible path to	Yes	Yes

	Street, car parking, facilities, open space		
Car parking	No specific resident or visitor parking required	155 spaces – 137 residents, 6 staff, 10 visitors, minibus and ambulance	Yes

SEPP No 65 – Design Quality of Residential Flat Development

The design quality principles for residential flat development were largely considered under the approved DA 279/2002 i.e. context, scale, built form, density (floor area), landscape, amenity, safety and security, aesthetics, social dimensions and resource, energy and water efficiency. The Statement of Environmental Effects submitted with the proposal does address the 10 design principles under “SEPP 65 Design Report”.

The following comments are made:

- The proposed dwelling sizes (13x 1 bedroom, 70 x 2 bedroom and 40 x 3 bedroom) provides a mix of housing types to cater for differing needs and budgets.
- The view from and vista of Boronia Avenue Conservation Area properties is maintained with the separation of Blocks D and E.
- The dwelling density, in terms of floor area reflects the Masterplan approval
- The building heights etc are consistent with DA 279/2002
- The landscaping provided is satisfactory – 51.4% of the site
- The safety and security of the future occupants are given consideration
- The aesthetics of the development will be satisfactory with use of varying external finishes and colour tones.

The NSW Residential Flat Design Code (RFDC) contains recommendations for the separation between residential flat buildings i.e. recommended distances between habitable rooms/balconies and non-habitable rooms, dependent on the height of the buildings. The objectives are to have appropriate massing and spaces between buildings, provide visual and acoustic privacy for residents, allow for open space and recreational areas, landscaping and control overshadowing of adjacent buildings. The RFDC makes recommendations of setbacks between buildings, and is measured from wall to wall, balcony to wall, etc, dependent on the circumstances. The building separation is not measured from a boundary. The building separation is usually measured horizontally between adjacent buildings, and for buildings up to 4 storeys, a 12m separation is recommended. A setback of 18m is recommended for buildings from 5-8 storeys.

The south eastern corner of Block C has been calculated at 14m from the corner of the awning at the rear of the single storey dwelling at No 25 Croydon Avenue, which is at an oblique angle to Block C. Even if the building separation was measured to the rear of the awning rather than the wall or window, the building separation would still comply with the provisions of NSW Residential Flat Design Code.

Council's DCP Part 18 – Residential Flat Development, requires a minimum of 8m setback from a common boundary for a 6 storey residential flat building i.e. 5m for 3 storeys and 1m for every additional storey. Block C satisfies Council's DCP in regard to setbacks from the common boundary with No 25 Croydon Avenue and Nos 12, 14 and 14A Brighton Street.

Articulation Zone

The Masterplan submitted with DA 279/2002 provided for a 2m wide articulation zone around the proposed 3 x Pt 4/5 storey buildings for the aged housing. Setbacks from the street frontages and southern boundary were from the outer edge of the articulation area. The articulation area is to allow for balconies, bay windows, canopies, etc, and to ensure that the facade of the buildings have adequate treatment to avoid a "bland" elevation. The approval to DA 279/2002 in December 2002 included a condition as follows:

"The setback from the Independent and Assisted Living Accommodation (IALA) buildings to Brighton Street and Croydon Avenue being increased to allow for a 2m articulation zone and a maximum of 30% of the articulation zone being floor space. The buildings generally will be a minimum of 6m from the respective side boundaries".

The Section 96 Modification to DA 279/2002 retained the articulation zones around the buildings, with a 5m setback from the street frontages, and the original setbacks from the southern boundary. The Section 96 Modification consent of 25 June 2004, subsequently deleted the above condition.

Number of Storeys

The SEPP No 5 Aged Housing portion of the development was limited to three x Pt 4 and Pt 5 storey buildings, under the approved DA 279/2002. The approval under the Section Modification limited the height of the buildings to 2 x Pt 4 and Pt 6 storeys, 1 x Pt 6 and Pt 5 storey over a basement car park and 2 x 2 storey along Brighton Street and Croydon Avenue. The height of the three multi-storey buildings were also limited to RL 44.5m. The two storey buildings had a varying height due to the slope of the land. The current proposed multi-storey buildings are 2 x Pt 4/Pt 6 (Blocks B & D) and 1 x Pt 6 and Pt 5 (Block C) storey residential levels over a basement car park. All three buildings comply with this maximum RL height.

Block C has a maximum of 6 residential levels and steps to 5 residential levels on its southern elevation. A level of car parking is located under the residential levels however this car parking is substantially but not totally below the existing ground level. The stepping of the uppermost residential level results in the building being predominantly 6 storeys. The building, however, is within the maximum RL of 44.5m approved under DA 279/2002, as modified.

Car Parking Level

A condition referred to the Minister for Infrastructure, Planning and Natural Resources in 2004, following approval of the Section 96 Modification to DA 279/2002, involves lowering of the basement car park to below the existing ground level. The proposed car parking level is below the existing ground level to the north of the site except for a portion of the car park underneath Block C. Notwithstanding, the building is within the maximum height limited of RL 44.5m and the area of car park above ground is not considered to contribute to additional amenity impacts to the surrounding area. To require the car park to be further lowered into the site would result in the need for additional ramps and possible additional level of car parking that may impact upon the design and the access lay out. The Access report that accompanied the application has raised no objection to the car parking design as proposed.

BASIX Certificate

A BASIX certificate No 36864M dated 19 April 2011 is submitted with the application, to meet the NSW Government's requirements for sustainability. Notwithstanding compliance with the BASIX requirements, provision of a stormwater recycling water tank is recommended, to service the landscaped areas of the development.

Heritage

The Section 96 Modification of DA 279/2002 imposed a condition that Council's Heritage Advisor's recommendations be incorporated into the design of the future development application to Council for the seniors housing buildings. The Heritage Advisor's recommendations were as follows:

1. That the proposed access point for ingress only located opposite the end of Boronia Avenue be designed as a focal point suitable for terminating the vista along Boronia Avenue in subsequent development applications. This is to incorporate:
 - A focal point or continuation of the vista
 - Articulation at the ingress point
 - Compatible materials
 - Retention of well-detailed brick fence to Brighton Street
 - Use of domestic scale and idiom (based on Anne Warr's comments, page 18 – Heritage Assessment)
2. The row of mature trees inside the boundary screening development to be retained with:
 - Reinforcement of boundary tree planting flanking the access point
 - Detailed landscaping and streetscape proposals, utilising trees and shrubs compatible with species in the surrounding area.
3. These portions of the building visible from Boronia Avenue are to be designed to provide an appropriate visual backdrop to the Boronia Avenue and Malvern Hill Conservation Areas. This would include:
 - Sympathetic roof scape in silhouette and detailing
 - Appropriate sympathetic materials, colours and forms
 - A generally refined and recessive architectural treatment
 - A quality contemporary building sympathetic to the streetscape
4. The expression of the buildings not mimic or copy of the architecture of the area, but must demonstrate respect for the value of Croydon and the aesthetic Boronia Avenue Conservation Area.

The present application is assessed by Council's Heritage Advisor in regard to the conditions of consent relating to heritage impacts in the following table:

Recommendations	Heritage Advisor's Comments re Present DA 65/2011	Heritage Impact
1. That the proposed access point for ingress only located opposite the end of Boronia Avenue be designed as a focal point suitable for terminating the vista along Boronia Avenue in subsequent development applications.	In this DA the entry has been reduced to a pedestrian entry only	Note: This is an improvement in terms of scale
▪ A focal point or continuation of the vista	This provides a domestic scale element as the focal point for views from the Boronia Park Conservation Area. This continues as a vista through the proposed development.	Acceptable
▪ Articulation at the ingress point	Gateway provides a local accent of domestic scale.	Acceptable
▪ Compatible materials	Building finished in mixture of brickwork and render with additional details of finer texture in balustrades.	Acceptable
▪ Retention of well-detailed brick fence to Brighton Street	Brick pier and steel palisade fence indicated.	Acceptable
▪ Use of domestic scale and idiom (based on Anne Warr's comments, page 18 – Heritage Assessment)	Block 'E' complies with this requirement Bloc 'D' does not represent a "domestic scale and idiom" but does comply with the approved envelope.	See Note below
2. The row of mature trees inside the boundary screening development to be retained with:	Trees retained	Complies
▪ Reinforcement of boundary tree planting flanking the access point	Approved by Tree Management Officer	Acceptable
▪ Detailed landscaping and streetscape proposals utilising trees and shrubs compatible with species in the surrounding area.	Approved by Tree Management Officer	Complies
3. These portions of the building visible from Boronia Avenue are to be designed to provide an appropriate visual backdrop to the Boronia Avenue and Malvern Hill Conservation	Vista along Boronia Avenue would terminate at lower scale development where trees have been retained and reinforced. Some impact from the adjacent Building 'Block D' due to disparity of scale.	Acceptable

Areas.		
This would include:		
▪ Sympathetic roof scape in silhouette and detailing.	Stepped form of Building 'Block E' complies with this requirement. Step back of 'Block D' from 6 to 4 storeys at top would be acceptable.	Acceptable
▪ Appropriate sympathetic materials, colours and forms.	Buildings finished in mixture of brickwork and render with additional details of finer texture in balustrades. Subject to confirmation of colours.	Acceptable
▪ Generally refined and recessive architectural treatment.	Proposal provides for an acceptable development in the visual catchment of the Boronia Avenue Conservation Area.	Acceptable
▪ A quality contemporary building sympathetic to the streetscape	Modifications mitigate potential impacts to an acceptable degree.	Acceptable
4. The expression of the buildings will not mimic or copy the architecture of the area, but must demonstrate respect for the values of Croydon and the aesthetic Boronia Avenue Conservations Area.	Complies	Acceptable

Note: The disparity of scales between Buildings Block D and Block E would be further mitigated by selection of recessive colours and materials at upper 2 floors of "Block D". Details of principal material selections and colours should be required prior to issue of the Construction Certificate.

In view of the comments from Council's Heritage Adviser, the applicant has addressed the heritage concerns that arose from the Section 96 modification to the Masterplan.

Traffic and Car Parking

The Statement of Environmental Effects includes a Traffic and Parking Report prepared by TTW Pty Ltd, Consulting Engineers. The scope of the report includes a site inspection to ascertain current access and traffic conditions, assessment of the proposed vehicle access and its ramifications to parking, pedestrian and traffic conditions and a review of the car parking design to determine its functionality. Traffic volumes were taken in both Croydon Avenue and Brighton Street, transport and accessibility were identified and the intersections of both streets with Liverpool Road were investigated, including on street parking and traffic generation of the development, under the RTA Guide to Traffic Generating Developments.

The report concludes that the traffic generated by the development is insignificant i.e. 25 trips per peak hour, which will have no adverse traffic impact on the road network. The report further notes that the width of the proposed vehicular access are adequate. The report further states that the construction traffic will be via Brighton

Street, which will be safe and efficient with minimal vehicular conflicts, due to the low level of traffic in Brighton Street. The report concludes that the car park design and access arrangements are acceptable, and the development will have no unacceptable traffic implications.

Council's Manager Traffic and Transport has indicated that the RTA has advised that the subject application does not need to be referred to the Sydney Regional Development Advisory Committee (SRDAC) of the RTA for its comments, since it has previously commented on the Masterplan DA 279/2002. The Manager of Traffic and Transport has noted the following:

- The expected additional traffic generated by 25 vehicles during peak hour would not have a significant impact on the existing road network.
- Traffic calming devices have been installed in both Croydon Avenue and Brighton Street.
- The traffic signals and vehicle directory flow, at the intersection of Croydon Avenue and Liverpool Road, as required under DA 279/2002 have been installed.
- The plans show a deviation from the Masterplan for access to and from the site, being the removal from the two northern vehicle access points in Croydon Avenue and Brighton Street, leaving only one vehicular crossing in each street. The crossing in Brighton Street has also been amended to allow vehicles to enter and exit, whereas the Masterplan showed vehicles exiting into Brighton Street only.
- The two proposed vehicle crossings are located along the southern boundary, adjacent neighbouring residential properties. Whilst the location of the driveways may raise amenity issues for the neighbours, there are no objections to these locations based on traffic management grounds, as the two proposed locations provide good sight lines for exiting and entering vehicles to the site.

The proposed arrangement shown in the plans will allow vehicles to enter and exit the site from both streets, reducing the impact on one particular street. From a traffic management point of view this is supported as it will provide options for residents of the site to enter and exit the road network safely, and is not expected to have a major impact on the existing traffic volumes in either Croydon Avenue or Brighton Street. Council's own traffic counts show that Croydon Avenue currently receives 5780 vehicles per day both ways. Brighton Street receives 726 vehicles per day both ways. The RTA's Traffic Generating Guidelines indicate 1-2 trips per day per unit for this type of use. This equates to approx 250 trips per day on average. Even with a 60/40 split between Croydon Avenue and Brighton Street, any additional traffic is considered to have a minimal impact upon the existing road network.

- The car parking complies with the Australian Standards.
- Two car spaces Nos 131 and 135 are identified as "non-resident", which should be reserved for staff i.e. staff parking increased from 4 to 6 car spaces.
- It is noted that the conditions of development consent of the Section 96 Modification restricted vehicle access during the construction to Croydon Avenue and no access south of Patterson Place. No reason can be seen for this to be varied with this DA.

Traffic Noise

Traffic noise criteria are set out in the Environmental Criteria for Road Traffic Noise – May 1999, published by the then Environmental Protection Authority (EPA) of NSW. The noise criteria set out are:

Day (7am – 10pm) Maximum L55dB
Night (10pm to 7am) Maximum L50dB

The Statement of Environmental Effects states that the noise generated by the 123 dwellings with 25 trips at peak hours, would not be significant and not noticeable i.e. 0.1 to 0.4dB increase.

The report concludes that the impact on the existing traffic noise levels along the surrounding streets will be imperceptible and insignificant with the additional vehicle movements generated by the development.

Notwithstanding the above, the location of the driveways adjacent to the residential properties, 25 Croydon Avenue and 12 Brighton Street and the impact the traffic movements will have upon the residential amenity of the occupants need to be addressed. No. 25 Brighton Street was part of the site with the original Masterplan approval but was subsequently sold to the current owner. The proposed traffic access varies from the Masterplan that included 2 vehicular ingress/egress points from Croydon Ave, and 1 ingress and 1 egress point from Brighton Street. While from a traffic point of view the access/egress arrangements have merit, the amenity impacts need to be assessed.

The Croydon Avenue driveway is currently proposed with a 1.5m setback from the common boundary with No 25 Croydon Avenue. The Brighton Street driveway is similar. It is considered that there should be a minimum of 3m setback of both driveways and that area be densely landscaped to be able to provide a buffer regarding noise and headlight glare.

Similarly, subject to agreement between the adjoining property owners, the southern rear boundary should be replaced for its entirety at the expense of the applicant with solid acoustic fencing to a height of 1.8m above the existing ground level of the adjoining properties to the south in order to ensure that amenity impacts are minimised.

These matters can be addressed by conditions of consent.

Shadowing/Solar Access

The adjacent properties to the south of the subject development are those which are most likely to be affected by the development, in terms of solar access i.e. No 25 to 29 Croydon Avenue, and Nos 12, 14 and 14a and 16 Brighton Street. It is noted that the siting and height of the buildings were determined in the approved Section 96 modification to the Masterplan dated on 25 June 2004. Notwithstanding, the documentation accompanying this DA includes shadow diagrams of the current proposal. The shadow diagrams did not include buildings adjoining the site to the south. The applicant subsequently provided amended shadow diagrams on 14 June 2011, that identified the adjoining properties and the extent of shadowing by the development particularly Block C, on these properties.

The diagrams reveal that these properties are not impacted in summer, spring and autumn i.e. 22 December, 22 March and 22 September. The mid winter (22 June) diagrams reveal that at 9am, No 14 Brighton Street (dual occupancy with No 14a) is marginally impacted, No 12 Brighton Street is in shadow. At 12 noon the rear yard of both No 12 and a small portion of the rear yard of No. 14 Brighton Street are affected. At 3pm the rear yard of No 14 Brighton Street and Nos 25, 27 and 29 Croydon Avenue are affected. In mid-winter the dwellings at Nos 25, 27 and 29 Croydon Avenue would not lose solar access until the afternoon i.e. approximately 1pm.

It is noted that adjoining residents have raised an issue regarding discrepancies between the shadow diagrams submitted with the Section 96 modification in 2004 and the amended shadow diagrams submitted with this application and received by Council on 14 June 2011. It has been noted that while the shadow diagrams are similar at 9am and 3pm there is a slight difference in the shadow at 12 noon. This would appear to result from the angle used in the 2004 diagrams that shows a greater emphasis towards the west of the site. Council raised this matter with the applicant who subsequently submitted further shadow diagrams on 4 July 2011. The only variation that is evident is a slight difference in the shadow angle at 12 noon mid winter. The degree of impact proposed, while additional to that currently experienced, is not considered sufficient to warrant further re-design or refusal of the application given that the building envelopes had been approved in 2004. Each of the adjoining properties to the south appear to receive at least 3 hours solar access mid winter and accordingly it is considered satisfactory in the circumstances.

Consistency With Development Consent DA 279/02

DA 279/2002 was issued pursuant to Section 80(4) of the Environmental Planning & Assessment Act as a staged development consent. Section 83D(2) and (3) of the Act state:

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

(3) Subsection (2) does not prevent the modification in accordance with this Act of a consent granted on the determination of a staged development application.

The question that needs to be considered as part of this assessment is whether the development application as proposed is consistent in the terms of Section 83D with the original approval and if not, whether any inconsistency would result in the DA being recommended for refusal. The applicant's town planning consultant has lodged a submission to Council that has included advice from 2 legal firms in respect of this issue. The advice from Maddocks Lawyers identifies minor variations between the Stage 1 DA and this proposal. However the advice suggests that the wording of Section 83D(2) should not be interpreted too narrowly and that the purpose of the stage 1 consent is to provide a general indication of what the development is to look like with the later application to contain the detail. The later application should not be inconsistent in the terms of the overall idea or concept. The advice suggests that a practical and common sense interpretation should be given to the word inconsistent and concludes that differences between the Stage 1 consent and this application do not amount to an inconsistency as contemplated by Section 83D(2).

In this circumstance it is considered that the variation between the vehicular access as approved in the Stage 1 consent and the vehicular access proposed in this application is an inconsistency that is contemplated by the wording of Section 83D (2), however on a merit based assessment, and subject to certain conditions relating to the location of the driveways, it is considered that the access can be supported. The architectural variations while being different are considered to be consistent with the original concept approval.

The submission from the applicant's town planning consultant also contains an advice from Lindsay Taylor Lawyers that concludes that a condition can be imposed on a consent that modifies the original Stage 1 consent in order to resolve an inconsistency. This matter has been discussed with Council's solicitors who have confirmed the advice. The applicant's town planning consultant has suggested an appropriate wording for the condition based on their legal advice and it is considered relevant and proper to include such a condition within any consent granted.

SEPP 5 – Transitional Provisions

In a submission on behalf of a resident, Kreisson legal raised a question whether the transitional provisions of SEPP 5 apply to this development, given that the application as lodged seeks consent pursuant to the provisions of the now repealed State Environmental Planning Policy No.5 - Housing for Older People or People with a Disability (SEPP 5). After consideration of this matter that includes confirmation from a legal perspective it is the view that the transitional provisions of SEPP 5 apply to this development. The original development application lodged DA 279/2002 sought an approval for the use of the site specifically for dwellings for older persons or persons with a disability having a gross floor area of 15000m2. The SEE lodged with the original application also discusses in detail matters in relation to the provisions of SEPP 5 and makes an assessment against the provisions of that policy.

The Notice of Determination issued by Council pursuant to the provisions of Section 80(4) of the Environmental Planning & Assessment Act makes it clear that part of the approval is for dwellings for older persons or persons with a disability pursuant to the provisions of SEPP 5 being the independent and assisted living accommodation buildings.

Additionally, this development application relates to the original Masterplan approval that was approved pursuant to the provisions of SEPP 5 as it is a following and a subsequent stage to the works envisaged and approved in the stage 1 Masterplan. The works proposed are not considered to be an enlargement or intensification of the original approval and significantly are closely aligned, albeit with some minor differences, to the original design and development approval.

Referrals (Internal)

Council's Urban Services Section has no objections to the proposal subject to standard conditions and public domain works.

The Heritage Advisor's comments are included under the heading "Heritage".

The Traffic and Transport Section's comments are included under the heading "Traffic and Car Parking".

Community Consultation

The subject DA was notified to surrounding residents from 9 to 30 May 2011. Following a Mayoral Minute to Council at its meeting 24 May 2011, Council subsequently resolved:

1. That Council hold a public information session relating to the recent site history, the approved Masterplan and the assessment/determination process for DA 65/2011 as soon as possible.
2. That Council allows submissions up until 21 June 2011.
3. That Council make a formal submission to the Joint Regional Planning Panel stating concerns/objections as follows:
 - a. Council does not support a gated community
 - b. Council would wish for a pedestrian path between Croydon Avenue and Brighton Avenue to allow residents to link through from Croydon Avenue to Keith Smith Park
 - c. Any future Section 94 Contributions to allow for future funding for Keith Smith Park and investigate a community gardens program
 - d. The impacts on the amenity at 25 Croydon Avenue, Croydon which is a heritage item including that the balconies/verandah facing the southern residential area have a detrimental impact on the adjoining residential area
 - e. Preference is to have 4 access points
 - f. Current driveways on the southern side which abut 25 Croydon Avenue, Croydon and residential properties on Brighton Street, Croydon currently have no buffer zones for screening, noise or visual pollutions
 - g. Council has concerns with the current height of the six storey tower in these locations
 - h. The number of four staff parking spots is inadequate
4. That the Mayor write to the residents advising them of the public meeting and mayoral minute.

A public meeting relating to this DA was held on 7 June 2011 and attended by 123 people. By letter dated 6 June 2011 Council wrote to the Panel Secretariat of the Joint Regional Planning Panel and advised of the above resolution.

Following the closure for public submissions, Council received 154 individual submissions and 172 pro forma letters. The individual submissions included submissions from a legal firm, a submission from the local State Member for Strathfield and 4 town planning consultants. Council also received 2 petitions objecting to the proposal with 849 and 109 signatures respectively.

A summary of the objections is as follows:

1. *Scale and height of the 6 storey portions of the development. The proposed development in relation to the residential surrounds:*
 - *Excessive in height, bulk, scale and dwelling density.*
 - *Not in character, context, or in sympathy to Croydon.*

- *Not suited and an inappropriate form of development.*
- *Not in harmony with heritage items and conservation areas.*
- *Has an adverse, negative visual impact on the existing streetscape and surrounds.*
- *Is an overdevelopment.*
- *Would adversely impact on adjacent properties and detrimental effect on solar access, loss in privacy amenity and property values.*
- *Not consistent with SEPP (Seniors Living) 2004 (previously SEPP 5) in regard to "maintenance" of the existing residential character, height and amenity.*
- *Not consistent with SEPP 65, in regard to "Good Design" in terms of bulk, height, scale to suit the streetscape, surrounds and density.*

Comment: The subject development is consistent with the approval granted by Council on 12 December 2002 to DA 279/2002, as modified on 22 June 2004. The height, scale, location of the buildings and floor area are consistent with the Mastepan and conditions of consent. The scale, character, context of the surrounding area, heritage items and conservation areas, traffic, car parking, the development in relation to the site, solar access, privacy issues, the principles of SEPP No 65, were given consideration, prior to Council's determination of DA 279/2002 and the subsequent Section 96 Modification. The original DA proposal and the Section 96 modification were found to be satisfactory in bulk, scale and design notwithstanding the scale of the surrounding development. The development has been assessed pursuant to the provisions of SEPP 5 and found to be satisfactory. Additionally, the development has also been assessed pursuant to the provisions of the Seniors Living SEPP 2004 and found to be consistent with those requirements.

2. *The development (Block C) is 7 storeys and not 6 storeys?*

Comment: Block C has a maximum of 6 residential levels and steps to 5 residential level on its southern elevation. A level of car parking is located under the residential levels however due to the level of the land and the stepping of the building the car park is considered to be substantially below the existing ground floor level except at the southern façade of Block C where the sixth level of residential units are stepped back. Generally the building is considered to be of 6 storeys however, notably; the building is within the maximum RL of 44.5m approved under DA 279/2002.

3. *The multi-storey buildings lack adequate articulations on their facades.*

Comment: The elevation treatment is considered acceptable. The architectural plans and proposed external finishes provide a variation in finishes and colour tones, between balconies and terraces, and building facades are well articulated.

4. *Inadequate setback between Block C and No 25 Croydon Avenue under the Residential Flat Design Code (RFDC).*

Comment: The RFDC provides recommendations to the separation between residential flat buildings i.e. recommended distances between habitable rooms/balconies and non-habitable rooms, dependent on the

height of the buildings. The objectives are to have appropriate massing and spaces between buildings, provide visual and acoustic privacy for residents, allow for open space and recreational areas, landscaping and control overshadowing of adjacent buildings. The RFDC makes recommendations for separation between buildings of up to 4 storeys (12m), however, No 25 Croydon Avenue is a single storey dwelling. The south eastern corner of Block C is located 14m from the north western corner of the awning at the rear of No 25 Croydon Avenue. This matter is also discussed under the heading "SEPP 65 Design Quality of Residential Flat Development".

5. *Multi-storey developments are inappropriate for Seniors Living.*

Comment: This form of development was permitted under SEPP 5 and is permitted under SEPP (Housing for Seniors or People with a Disability) 2004, under Part 6 Development for Vertical Villages.

6. *Traffic and Parking generated by the development:*

- *Would cause traffic congestion in Brighton Street and Croydon Avenue.*
- *Would create pressure on kerb-side parking, due to inadequate provision of visitor parking on site.*
- *Inadequate provision for staff parking (4 off), in view of the extent of Block B Community Centre and necessary maintenance of the ground.*
- *Inadequate provision of off-street parking given the potential of 246 residents (123 units x 2) and likely 492 cars (246 x 2) generated.*
- *Unacceptable traffic noise from traffic movements and congestion of streets. Unacceptable safety for public due to additional traffic in the area.*
- *The location of the driveways would adversely impact on properties to the south, in terms of noise, safety, amenity, and access inconvenience.*
- *The reduction in the number of vehicular access into the development from 4 to 2 (from approval to this application) would further add to the adverse impact on the properties to the south of the site.*

Comment: The Traffic and Car Parking report submitted with the application concludes that the additional traffic generated by the development would be a maximum of 25 trips per peak hour, and this increase would be insignificant to the existing road network. Further the report states that the provision of an access in both Croydon Avenue and Brighton Street would be acceptable with no traffic implications. This matter has been addressed under the heading "Traffic and Car Parking", which includes Council's Traffic and Transport comments. The applicant has advised Council that the average age of occupants is 79 years of age, and less than 40% of residents own a car.

Vehicular noise generation and the location of the driveways is addressed under the heading "Traffic Noise".

7. *The open space and landscaping provision:*

- *Inadequate open space (recreation area) provided.*
- *The 5m setback from the street frontages is inadequate for the development scale and height, which would have an adverse impact on the streetscape.*
- *Consideration of a “public walk/access” through the development to link Keith Smith Park with Croydon Avenue.*
- *Inadequate landscape buffer provided between the vehicular driveway and adjoining properties to the south, in view of number of vehicular movements.*

Comment: The landscaping area requirement under SEPP 5 is a minimum of 1885m² of the site area as landscaped area. The proposal provides on equivalent of 50.3m per dwelling or 51.4% of the site area this includes deep soil planting to 21.2% of the site area. This equates to 6197m² of total open space with 2557m² of deep soil planting.

- The 5m setback from both street frontages is consistent with the approval to DA 279/2002 as modified.
- Discussion has been held with the applicant in regard to a walkway/access by the public through the site to link Croydon Avenue to Keith Smith Park, located on the western side of Brighton Street. The applicant is concerned with security and crime to its elderly residents, however, is willing to permit pedestrian access during day light hours along the driveway to the south of Blocks A, C and E, and that there be no sign posting or access after “dark”, no general public vehicle access/egress due to the risk of a vehicular throughway.
- The landscape buffer between the Croydon Avenue driveway and the northern boundary of No 25 Croydon Avenue is 1.5m wide. This width can be increased to 3m, to allow an improved landscape buffer to No 25.

8. *Inadequate separation between Block C and properties to the south.*

Comment: Table 1 – Comparison between the approved DA 279/2002, as modified and the subject application reveals that the setback/separation between Block C and the southern boundary have not been varied. Block C is 10m north of the northern boundary of No 25 Croydon Avenue, a distance of 14m between the south-eastern corner of Block C and the north western corner of No 25 i.e. the close points between the two buildings. This matter is also addressed under the heading “SEPP 65 Design Quality of Residential Flat Development”.

The southern boundary “steps” at the rear of No 25 Croydon Avenue, and Block C is between 22-24m from the remaining portion of the southern boundary. The separation satisfies SEPP No 65 and the Residential Flat Design Code (RFDC) recommendations.

9. *The local infrastructure, amenities and services are not adequate.*

Comment: The development accommodates within the ground level of Block B a community centre, management office, library, consulting rooms, a swimming pool, hairdresser, a cinema, community activity room,

a kitchen and a dining room for the residents. The facilities would likely meet part of the residents' social and recreational activities and necessary amenities. The management office arranges for bus etc services for the occupants as necessary.

10. *The approved DA 279/2002, as amended in 2004, has lapsed and should not be used to permit the development.*

Comment: The development of the Western Suburbs Hospital site included the Community Health Centre (constructed and operating), the Nursing Home and Hostel (stage 2, constructed and operating), and the subject Seniors Living stage. It is considered that the development has been both substantially and physically commenced and therefore continues to operate under the provisions of the EP& A Act 1979 and EP&A Regulation 2000.

11. *The development will set an undesirable precedent for future development in the area.*

Comment: The site is "unique" in that it was previously the site of hospital, in the ownership of the NSW Government, and DA 279/2002 was lodged by the Health Administration Corporation of the NSW Department of Health i.e. a Crown Application. The intent was to use the site for public purposes and for the benefit of the public. The outcome for the site has not altered since the site was no longer needed as a hospital.

The Catholic Health Care Ltd took up the Nursing Home and Hostel and Seniors Living portions, whilst the Community Health Centre remains in the NSW Government's control.

The subject development is unlikely to be repeated and used as a precedent in the area.

12. *The 40x3 bedroom units (32% of dwellings) are excessive in size for Seniors Living.*

Comment: Catholic Health Care has advised that the current demand is for 3 bedroom dwellings as aging "baby boomers" are downsizing "the obligations of home ownership and its accompanying maintenance burden". They need 1 room for themselves, 1 room for guest/partner and a third room for designated space for a study or craft room. CHC has also provided data on other Seniors Living Villages where the 3 bedroom dwellings consist of 36% to 80% of the number of dwellings in the development depending on the area.

13. *The development will be "basically for a gated community, a concept totally repugnant to the community in the Burwood/Croydon Area".*

Comment: CHC has advised that security of its elderly resident is essential, and all buildings to the north of the southern driveway and basement car park, will need to be secured. Access along the driveway will be through the Management Office or a 2-way system. CHC has not decided at this stage, whether boom gates be provided to both the vehicle

access, and is concerned with drive through traffic. Front fences are proposed along Croydon Avenue and Brighton Street.

14. *The Statement of Environmental Effects does not contain a detailed heritage study of the heritage items and surrounds.*

Comment: The heritage issues and report on the whole development site including No 25 Croydon Avenue, were submitted and considered with DA 279/2002, and as modified in 2004. The subject DA 65/2011 is necessary due to the additional details associated with this portion of the development, that is required to be submitted for Council's consent. Council's Heritage Adviser has made a detailed assessment of the proposal. An additional heritage issue, relating to the continuation of the vista between Blocks D and E (continuation from Boronia Avenue) landscaping, articulation, architectural treatment has been assessed by Council's Heritage Adviser and is addressed under the heading "Heritage".

15. *The proposal is inconsistent with DA 279/2002 Masterplan in view of the amendments to the number of vehicular access and egress points to the site and internal traffic movements i.e. Section 83D of the EP&A Act 1979 does not permit variations to a Masterplan, except with a Section 96 Modification.*

Comment: This matter was raised with the applicant who has submitted legal advice that states that the development is consistent with the original approval as contemplated under Section 83D of the EP&A Act. Notwithstanding, advice has also been provided that a condition can be imposed upon any consent granted that modifies the original Masterplan in accordance with the current proposal. This matter has been discussed with Council's solicitors who agree that an appropriate condition can be imposed upon this consent to modify the original consent DA 279/02.

16. *The shadow diagrams and architectural model do not identify or represent the properties to the south of the development correctly. The degree of overshadowing to the properties to the south from the 6 storeys building is excessive and will leave properties in total shade during mid winter.*

Comment: CHC was advised of this matter and has since submitted the additional information with the shadow diagrams and representation of the buildings No 25 Croydon Avenue, and No 14-14A Brighton Street on the architectural model. Relevant property owners in this regard were advised by letter that CHC has attended to this issue. The shadow impacts of the development are assessed in the section "Shadowing/Solar Access". It is considered that the loss of solar access is not sufficient to warrant re-design or refusal of the application notwithstanding the fact that the building envelopes were approved by Council in the Section 96 modification in 2004.

17. A "Compatible Certificate" under SEPP (Seniors Living) 2004 has not been lodged.

Comment: A Site Compatibility Certificate from the Director General of the Department of Planning for an application under the Seniors Living

SEPP was only required in 2007, when the SEPP was amended. DA 279/2002 was approved on 2002 and as modified in 2004 pursuant to SEPP 5. The current application has been lodged pursuant to the provisions of SEPP 5 and therefore a Site Compatibility Certificate is not required for this development.

18. *There has been inadequate public consultation and properties to the north of Liverpool Road (Malvern Hill Conservation Area) were not advised of the application.*

Comment: Properties to the north of Liverpool Road were not notified, in view of the location of the proposal to the south of the Community Health Centre and the Nursing Home and Hostel that are located on the southern side of Liverpool Road. It is considered that any impacts from the development would be predominantly contained on the south side of Liverpool Road.

19. *The existing trees along the western and southern boundaries be preserved.*

Comment: An Arborist Report on the health and state of all existing trees in the site was submitted with the application. It identifies a small number of existing trees to be removed. Council's Tree Management Officer has investigated the trees and the report and agrees with trees to be removed i.e. as per the landscape plans submitted. There will be replacements throughout the site, however, most of the existing trees will be retained.

20. *Construction truck movements and noise will be generated before the permitted hours of construction i.e. noise and inconveniences.*

Comment: The hours of construction are not permitted prior to 7am from Monday to Saturday and no work on Sunday. Should trucks arrive at the site prior to 7am, and are not involved in loading and unloading, it does not constitute construction work. Should work begin before 7am, the residents can contact the Principle Certifying Authority whose details are required to be displayed on the site, or Council.

21. *Loss in privacy to adjoining properties.*

Comment: Block C does not have any balconies to the south, except where the building steps from 5 to 6 storeys. The terraces for the 6 storey are located behind a substantial planter box and privacy loss is not adverse from this level. The balconies on the south eastern and south western corners will have translucent glass privacy screens to its southern end. The proposed landscaping and existing trees along the southern boundary would further provide screening for the adjoining properties.

The existing trees along Brighton Street provide screening between Block D and properties on the western side of Brighton Street.

Landscaping and tree planting are proposed along Brighton Street and Croydon Avenue between Blocks A, B & E and the street boundary, which grow to 5-15m in height.

22. *The stormwater line and grates not be permitted on the landscape strip to the north of No 25 Croydon Avenue.*

Comment: This stormwater line and grates can be located on the driveway notwithstanding that the width of the landscape strip will be increased from 1.5m to 3m.

23. *The development does not consider "sustainability" issues – recycling of water, solar electricity generation etc.*

Comment: A Basix Certificate has been submitted with the application. A stormwater recycle system for the proposed landscaped area is included in the recommended conditions.

24. *Council has not complied with Clause 91 of the Regulations in regard to it notification of the development application.*

Comment: The notification of the application is considered to satisfy the EP&A Act 1979, 2000 Regulations, and Council's DCP Pt. 6 – Notification of Development Applications.

25. *The site was purchased for \$100.00 and should remain for public use.*

Comment: This not a matter that needs to be addressed under Section 79C of the EP&A Act 1979.

26. *The proposal is "primarily a commercial development".*

Comment: The proposal is a residential development to provide housing for seniors or people with a disability, and ownership remains with CHC.

27. *The basement carpark be located below natural ground level, as required by the DA consent.*

Comment: A condition of the Section 96 Modification to DA 279/2002, is as follows:

" Subject to not breaching disabled access provisions and/or Department of Infrastructure, Planning and Natural Resources guidelines for residential accommodation for the aged and disabled, every effort should be made in the detailed design for the car park servicing the IALA buildings being lowered into the site and being below the existing ground level."

The basement car park is located below the natural ground level (NGL) accept the portion located under Block C. The vehicular entries are also above the NGL. The design variation allow for ease of access into the single level basement from the southern end of the site and driveway, which is partly excavated and below the NGL, and avoiding the need for additional driveway ramps. The Access Report submitted with the application concludes that the "provision of well designed parking for residents and visitors" are in accordance with SEPP (Housing for Seniors or People with a Disability".

Conclusion

The subject development application for seniors housing or people with a disability, is the final stage of redevelopment of the former Western Suburbs Hospital land. Development consent to redevelop the land for a Community Health Centre, a Nursing Home and Hostel and Seniors Housing was originally granted in December 2002, and modified in June 2004. The current application DA 65/2011 provides details to comply with the original approvals, details for the proposal to proceed to be constructed, landscaping, improvements to vehicular access and vehicular movement within the site.

DA 65/2011 for 3 x 6 storey and 2 x 2 storey buildings with associated car parking, is consistent with the Masterplan approval granted to DA 279/2002, as modified. The maximum heights and location of the buildings are consistent with the Masterplan. Improvements to setbacks between the 2 x 2 storey and the southern boundary, and 2 way vehicular driveways in both Croydon Avenue and Brighton Street are proposed. The traffic generated by the development and the rearrangement of the vehicular driveways would not have a significant impact on the local road network. The development is considered unlikely to have an adverse impact on the amenity of the area, complies with the provisions of SEPP 5 and accordingly is supported, subject to conditions.

Recommendation

- A. That Development Application 65/2011 that proposes the construction of 123 units for aged people or people with a disability pursuant to the provisions of SEPP 5 be approved subject to the following conditions
- (1) The development being carried out in accordance with the plans submitted on 21/04/2011 identified below, except where amended by the conditions of consent:
- (a) Architectural Drawing Nos 2010-0034 DA 1A to DA 19A, prepared by Campbell Luscombe Architects, dated April 2011.
 - (b) Engineering Drawing Nos 101561 CO 1 to CO 5, Revision P3, prepared by Taylor Thompson Whitting, dated 13 April 2011.
 - (c) Landscape plan Drawing Nos LA 01 to LA 07, Revision A, prepared by Taylor Brammer, dated March 2011.
 - (d) BASIX Certificate No. 36864M date 19 April 2011.

FEES

The fees and/or bonds shown in the Table of Fees, are to be paid to Council or another approved collection agency (the Long Service Levy Corporation and its agents and an approved insurer under the Home Building Act 1989) and suitable evidence of payment is to be provided to the Principal Certifying Authority **prior to the issuing of a Construction Certificate.**

TABLE OF FEES

**FEES/BONDS TO BE PAID TO COUNCIL OR TO THE NOMINATED BODY
PRIOR TO ISSUING A CONSTRUCTION CERTIFICATE**

- (1) Building and Construction Industry Long Service Corporation Levy
\$33,000.00
(Payment to be made to Council, the Corporation or its Agent)
- (2) Damage Deposit - security deposit against damage occurring to Council's assets (footpath, road, stormwater, kerb and gutter, etc) during building work
\$50,000.00
(Payment to be made to Council prior to issue of a Construction Certificate and/or commencement of demolition/bulk excavation)

NOTE: This deposit is refundable if no damage occurs.

- (3) **If Council is nominated as the Principal Certifying Authority (PCA)** an inspection fee is to be paid.

This fee is for 40 inspections and any additional inspections, including re-inspections, shall be levied and paid to Council upon booking of an appointment at the rate of \$130.00 (including GST) per half hour or part thereof.

\$4,200.00

(Payment to be made to Council)

- (4) Pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 and the Section 94 Contributions Plan 2006 (Open Space, Community Facilities and Public Car Parking) and Section 94 Contributions Plan No. 1 (Road and Traffic Facilities), the following monetary contribution towards public services and amenities is required:

Contribution Element	Contribution
Open Space and Recreation (Acquisition & Embellishment New Open Space)	\$ 779,393.23
Open Space and Recreation (Embellishment Existing Open Space & New Fields)	\$ 202,411.82
Community Facilities	\$ 696,499.05
Plan Preparation and Administration	\$ 70,269.40
Road and Traffic Facilities	\$ 30,989.85
Total	\$1,779,563.30

Index Period	December 2009	CPI₁	169.1
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The above contribution will be adjusted at the time of payment. Applicants are advised to contact Council for the adjusted amount immediately prior to arranging payment.

The contribution will be adjusted in accordance with the following formula:

$$\text{Contribution (at time of payment)} = \frac{C \times \text{CPI}_2}{\text{CPI}_1}$$

Where:

C: the original contributions amount as shown in the development consent;

CPI₂ the Consumer Price Index: All Groups Index for Sydney, for the immediate past quarter (available from the Australian Bureau of Statistics at the time of payment)

CPI₁ the Consumer Price Index: All Groups Index for Sydney applied at the time of calculation as shown on the development consent.

Note: The minimum payment will not be less than the contribution amount stated on the consent.

The contribution is to be paid to Council, or evidence that payment has been made is to be submitted to the Principal Certifying Authority, **prior to the issuing of a Construction Certificate.**

Council may accept works in kind or other material public benefits in lieu of the contribution required by this condition subject to and in accordance with the requirements specified in Section 94 Contributions Plan 2006, and the lodgment of an application for a modification of consent under Section 96 of the Environmental Planning and Assessment Act 1979.

Note: Credit cards and personal cheques are not accepted for the payment of Section 94 contributions.

- (5) Bond for Public Domain – Streetscape Improvements
\$150,000.00
(Payment to be made to Council prior to the issue of a Construction Certificate and/or commencement of demolition/bulk excavation – Refer to “Public Domain” conditions)
- (6) Bond for Tree Removal/Replacement – Council street tree replacement of
\$2,000.00
(Payment to Council for removal of Council’s trees at the grass verge prior to the issue of a Construction Certificate or demolition works – Refer to “Tree Removal/Protection condition.

PLANNING

- (1) Samples and details of all external surface materials being submitted for Council's approval, **prior to the issuing of a Construction Certificate.**
- (2) No drying of clothing being permitted on balcony and patio areas which are visible from a public place.
- (3) The noise emitted by the air-conditioning equipment being inaudible in your neighbours' homes between 10pm and 7am weekdays and 10pm and 8am on weekends and public holidays.

- (4) Prior to commencement of any site works, all trees identified in the landscape plan to be retained, shall be enclosed by protective fencing to prevent them from being damaged during the construction period.
- (5) A detailed landscape plan prepared in accordance with Council's Landscaping Code, by an accredited certifier, qualified landscape architect or practising landscape consultant and submitted to Council for consideration. The plan shall indicate all existing trees on the site and those to be removed. The approved landscape plan is to be submitted to the Principal Certifying Authority, **prior to the issuing of a Construction Certificate.**
- (6) The landscaping of the site being carried out in accordance with the approved landscape plan prior to the issuing of an Occupation Certificate. The landscaping is to be maintained at all times following its installation. Any trees planted as part of the approved landscape plan shall be of a super advanced stage with a minimum 75 litre container size. The trees shall not be altered or removed without the prior consent of Council being given in writing.

The landscaping is to be maintained at all times from the date of the Occupation Certificate.

- (7) Compliance with the BASIX Certificate No 36864M date 19 April 2011, in regard to requirements for sustainability, and in accordance with the commitments set out in the certificate.
- (8) The landscape strip between the driveway(s)/car parking, and the southern common boundary with No 25 Croydon Avenue and adjoining properties, shall be increased to a minimum width of 3m, and landscaped with dense screening plants. **Details to be submitted prior to release of the Construction Certificate.**
- (9) The stormwater line and grates located within the landscape strip to the north of No 25 Croydon Avenue, shall be relocated onto the driveway.
- (10) The ambulance and mini-bus parking bays shall be relocated a minimum of 7.5m, away from the rear of No 25 Croydon Avenue.
- (11) An acoustic fence (masonry fence) with a height of 1.8m above existing natural ground level of the adjoining dwellings to the south shall be erected along the whole southern boundary of the site at the applicant's cost.
- (12) The substation is to be located a minimum distance of 7.5m from the southern common boundary.
- (13) Public pedestrian access is to be available along the driveway, during daylight hours, to link Croydon Avenue with Brighton Street.
- (14) Provision of "boom gates" or similar for both vehicular driveway access, to prevent use of the driveways as a "throughway". The gates are to be located within the site to Council's Manager Traffic and Transport approval, to ensure there is no queuing and congestion on both streets, **prior to the issue of a Construction Certificate.**

- (15) A Management Plan be in place to allow visitors access to the visitor car spaces. All visitor car spaces are to be clearly identified. Details are to be submitted to the Principal Certifying Authority prior to the issuing of an Occupation Certificate for the development.
- (16) The staff parking is to be increased to 6, with use of the "non-resident spaces" Nos. 131 and 135 being designated and signposted accordingly.
- (17) Compliance with SEPP No 5-Housing for Older People or People with a Disability), including wheelchair access, security, accessible entry(s), minimum requirements for internal dwelling room sizes, corridor widths, provision of lift(s), surface finishes, door hardware, facilities and amenities, kitchen, bathroom, laundry and garbage requirements.
- (18) A restriction as the user is to be registered against the title of the property, in accordance with Section 88E of the Conveyancing Act 1919, limiting the use of any accommodation to the following:
 - a. Seniors or people who have a disability,
 - b. People who live within the same household with seniors or people who have a disability,
 - c. Staff employed to assist in the administration of and provision of services to occupants of the development.

Evidence of compliance with this condition is to be submitted to Council, **prior to the issue of an Occupation Certificate.**

- (19) Provision of a stormwater recycling system to service the landscaping of the development. The capacity of the tank is to be discussed with Council and be similar to the OSD tank. The proposed system is to be submitted to Council for approval, **prior to the issue of a Construction Certificate.**
- (20) Provision of privacy screens along the southern edges of balconies on the south-eastern corner of Block C.

Living room windows on the south-eastern corner of Block C (south elevation) are to have a sill height of 1.5m, or fixed windows on the south elevation with obscured glazing.
- (21) All windows and sliding doors are to be provided with key operated locks as a crime prevention measure and for the security of future residents.
- (22) All works are to be located within the site boundaries.
- (23) The maximum height of the roof(s) are not to exceed:
 - a. Blocks B, C and D – RL 44.50
 - b. Blocks B & D (4 storey portion) – RL 38.00
 - c. Block A – varies between RL 34.00 and 30.50
 - d. Block E – varied between RL 34.00 and 31.00

- (24) The development is to consists of 123 dwellings (13x1br, 70x2br, 40x3br) and a total floor area of 15,163m².
- (25) The facades of the building are to be given a variation in finishes and colour tones to enhance the building, to Council's satisfaction. The finishes and

colours are to be shown on the elevation and provided to and approved by Council, **prior to the issue of a Construction Certificate.**

- (26) The exhaust ventilation system of the basement is to be an integral part of the building and is not to be located between the building and/or boundaries.
- (27) All windows and door openings to have a corbelled header and sill courses or, alternatively, have varying colours tone brick heads and sills. The brickwork colour tones are to be approved by Council, **prior to the issue of a Construction Certificate.**
- (28) Safety and security night lighting being provided for the development with such details incorporated in the amended landscape plans to be submitted to Council for approval, **prior to the issue of a Construction Certificate.**
- (29) All external balustrades are to have a minimum height of 1.2m measured from the balcony/terrace floor level. Balustrading is to consist of opaque glazing or or suitable materials.
- (30) A "Work as Executed" drainage plan is to be submitted for Council's approval, **prior to the issuing of a Final Occupation Certificate.**
- (31) Selected roof tiles are to be used for Blocks A and E, details are to be submitted to Council's Heritage Adviser prior to construction.
- (32) Street front fencing is to comply with the provision of DCP Part 38 Single Dwellings and Ancillary Structures - Fencing. The design and materials are to be submitted to Council for approval, **prior to the issue of a Construction Certificate.**
- (33) The applicant is to consult with Energy Australia to determine the need to an electricity substation **prior to the issue of a Construction Certificate** and, if a site is required, it being situated on the site adjacent to the street alignment, with the size and location of the area being in accordance with the requirements of this Council and Energy Australia, and the land required being dedicated without cost as a public roadway, to enable Energy Australia establish the substation. The linen plan being submitted to Council for approval and issue of a Subdivision Certificate and being registered with the Land Titles Office **prior to the issue of a Construction Certificate.**
- (34) Demolition or construction work including deliveries of materials, etc, which would result in footpaths and/or roads being blocked shall not be carried out on Saturdays.
- (35) Any telecommunication or TV antennae, etc on the roof are only to serve the subject development, and not be visible from the immediate public area around the development, and located away from the edges of the building.
- (36) The driveways, from the site boundaries to the basement entries are to be treated with a variation of paving for a visual break, with details of materials being submitted to Council for approval, **prior to the issue of a Construction Certificate.**

- (37) Provision of a car wash bay suitably equipped with a tap, hose and drainage, to Sydney Water requirements.
- (38) All external services including air conditioning units, electrical or gas water heaters, meters, equipment, conduits, drainage and water pipes, are to be located in recessed enclosures within the external walls and are not to be visible from the public domain area or road. Details are to be provided, **prior to the issue of a Construction Certificate.**
- (39) All finished ground levels adjacent to the property boundaries are to be at the existing natural ground level.
- (40) Ten percent (10%) of the dwellings are to be "Adaptable dwellings" in accordance with clause 13A (2) (d) of SEPP No 5 – Housing for Older people or People with a Disability. Such units shall be fitted out in accordance with AS. 1428.1 – 2001 Design for Access & Mobility.
- (41) **Prior to the issue of a Construction Certificate**, the consent to DA 279/2002 is to be modified in accordance with the Environmental Planning & Assessment Regulation 2000 as follows:
- A part 1, part 2 storey Community Health Centre with a maximum floor area of 4000m².
 - A part 1 part 2 part 3 storey Nursing Home and Hostel containing 127 beds and having a maximum floor area of 8500m²
 - Dwellings for older persons or persons with a disability pursuant to the provisions of State Environmental Planning Policy No 5 (SEPP 5) – Housing for Aged Persons or Persons with a Disability being the Independent & Assisted Living Accommodation buildings and a maximum floor area 15000m² being part 4 part 5 storeys.
 - A refurbishment and extension of the existing heritage listed cottage on the corner of Brighton Street and Liverpool Road.
 - Shops and offices servicing the needs of occupants, visitors and staff of the site and having a maximum floor area of 150m²
 - 400 car parking spaces associated with uses on the site, contained in 2 separate car parks and the construction of the northern car park for the community Health Centre and the Nursing Home and Hostel
 - Associated site works and tree removal including drainage
 - The building envelopes and heights as indicated on the submitted Masterplan Nos ADOM 1001 – 1004 ~~Issue 4 dated 27.10.03 inclusive~~ **Issue 5 dated 24.06.2011 inclusive.**
 - Subdivision of the site into 5 allotments at ground level plus a stratum subdivision that includes the main northern most car park servicing the Community Health Centre and the Nursing Home and Hostel as indicated on drawing No's VD00001, VD000201 and VD000101
 - The erection of a car parking structures in accordance with drawing No's AD111101 (issue 02), AD114101 (issue 03), AD114201, AD114301 and AD133001.
- (42) Dilapidation surveys are to be carried out at the applicant's expense by a qualified practising structural engineer on all premises adjoining the site and submitted to Council and the adjoining land owner prior to the commencement of excavation works on the site. The dilapidation survey shall

detail the condition of the adjoining properties internally and externally subject to access being allowed into the adjoining premises.

TREE RETENTION, REMOVAL & PROTECTION

- (1) The existing trees identified in the Arboricultural Impact Assessment Report dated 3 September 2010, prepared by Redgum Horticultural (A & H Consultants) are to be retained, as recommended, in the Tree Schedules and on the Tree Location/Protection Plan.
- (2) Prior to the commencement of works a 1.8 metre high fence (chain mesh, roadside barrier webbing or similar) shall be erected in accordance with the Australian Standard for the Protection of Trees on Development Sites (AS4970-2009) around the maximum possible area of the drip line (outer edge of the canopy) of the trees. The fence shall remain intact until all construction is completed.
- (3) Tree Preservation Zone (TPZ) fences shall be signposted to advise all people associated with the development (e.g. contractors, suppliers, developers, workers) and the general public of their purpose (e.g. Tree Protection Zone – No Admittance). Signs are to be maintained and remain throughout the construction period.
- (4) The above TPZ fences and signs shall be installed **prior to the issue of a Construction Certificate and/or commencement of demolition/bulk excavation.**
- (5) The following activities shall not take place within the TPZ:
 - a. Machine excavation including trenching
 - b. Excavation for silt fencing
 - c. Cultivation
 - d. Storage
 - e. Preparation of chemicals, including preparation of cement products
 - f. Parking of vehicles and plant
 - g. Refuelling
 - h. Dumping of waste
 - i. Wash down and cleaning of equipment
 - j. Placement of fill
 - k. Lighting of fires
 - l. Soil level changes
 - m. Temporary or permanent installation of utilities
 - n. Physical damage to the tree

The applicant and/or contractor shall contact Council's Tree Management Officer (ph 9911 9911) if any variations to the above conditions are proposed.

- (6) The firewheel tree (*Stenocarpus sinuatus*) located on Council's nature strip, in close proximity to the proposed driveway, in Brighton Street is removed and replaced with a tree of the same species purchased in a minimum container size of 75L.

- (7) The two (2) trees located on Council's nature strip in Croydon Avenue which are proposed for removal are to be replaced with 2 x Lasiandra (Tibouchina granulosa 'Alstonville') purchased in minimum container sizes of 75L.
- (8) The applicant shall arrange all tree removal and replacement works to be carried out by suitably qualified persons at their cost.
- (9) A monetary bond as specified in Fee condition 6 for tree planting, shall be **paid to Council by the applicant prior to release of the Construction Certificate** and will be held by Council until an Occupation Certificate is issued.

BUILDING

- (1) Where residential building work (within the meaning of the Home Building Act 1989) is proposed to be carried out, either of the following is to be provided to the Principal Certifying Authority **prior to the issuing of a Construction Certificate:-**
 - a. Where work is carried out by a licensed tradesman or builder:
 - (i) written advice of the licensee's name and contractor licence number, and
 - (ii) a certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 to the effect that a person is the holder of an insurance contract issued for the purposes of that Part.
 - OR
 - b. Where work is carried out by an owner-building:-
 - (i) written advice of the person's name and Owner-Builder Permit number, or
 - (ii) signed declaration from the owner of the land that states the reasonable market cost of the labour and materials involved in the work is not high enough for the owner to need an Owner-Builder's Permit to do the work.
- (2) Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided:
 - a. must be a standard flushing toilet, and
 - b. must be connected:
 - (i) to a public sewer, or
 - (ii) to an approved chemical closet facility.

The toilet facilities are to be completed before any other work is commenced.
- (3) All building work must be carried out in accordance with the provisions of the Building Code of Australia. Details of the method of achieving this must be

submitted to the Principal Certifying Authority **prior to the issuing of a Construction Certificate.**

- (4) All excavations and backfilling associated with the erection or demolition of a building shall be carried out in a safe and careful manner and in accordance with appropriate professional standards. All necessary planking and strutting shall be of sufficient strength to retain the sides of excavations. A Certificate verifying the suitability of structural details for any proposed shoring is to be submitted to the Principal Certifying Authority before excavating.
- (5) All excavations associated with the erection or demolition of the building are to be properly guarded and protected to prevent them from being dangerous to life or property.
- (6) Where soil conditions require it:
 - a. retaining walls must be provided so as to prevent soil movement; and
 - b. adequate provision must be made for drainage.
- (7) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - a. must preserve and protect the building from damage, and
 - b. if necessary, must underpin and support the building in an approved manner, and
 - c. must, at least 7 days before excavation below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

Allotment of land includes a public road and any other public place.

- (8) If the work involved in the erection or demolition of a building:
 - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - b. building involves the enclosure of a public place.

A hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

- (9) The builder is to take all precautions to ensure footpaths and roads are kept in a safe condition and to prevent damage to Council's property. Pedestrian access across the footpath must be maintained at all times. Any damage caused will be made good by Council at Council's restoration rates, at the builder's expense.
- (10) No materials are to be stored on Council's roads, footpaths or parks.
- (11) The builder shall erect and maintain in good order all necessary hoardings, barricades and warning signs required to provide adequate public safety. Night warning lamps are to be provided where necessary.
- (12) No work involving the use of mechanical plant and equipment being carried out other than between the hours of 7:00am – 5:30pm Monday to Fridays and 7:00am – 1:00pm on Saturdays, with no work at all being carried out on Sundays and Public Holidays.
- (13) Hours of construction work shall be from 7:00am to 5:30pm Mondays to Fridays inclusive, and from 7:00am to 1:00pm Saturdays. No construction work shall be carried out on Sundays. The owner/builder shall be responsible for the compliance of this condition by all sub-contractors, including demolishers.
- (14) The approved structure shall not be used or occupied unless an Occupation Certificate (being a Final Certificate or an Interim Certificate) as referred to in section 109C(1)(c) of the Environmental Planning & Assessment Amendment Act has been issued.

(Vide section 109M Environmental Planning & Assessment Amendment Act)

- (15) The building works are to be inspected during construction by Council or an appropriate Accredited Certifier at the stages of construction listed in the following schedule;

SCHEDULE OF CONSTRUCTION STAGES REQUIRING INSPECTION

- * after excavation for, and prior to the pouring of, any footings;
- * prior to covering waterproofing in any wet areas;
- * prior to covering any stormwater drainage connections; and
- * after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

SWIMMING POOLS

- * The **excavation** prior to the placement of a fibreglass pool;

- * Reinforcement and preliminary works prior to pouring of concrete; and
 - * Swimming pool fencing prior to filling the pool with water.
- (16) An application for a Construction Certificate is to be made to Council or an Accredited Certifier. Council's 'Construction Certificate Application' is to be used where application is made to Council. Copies are available upon request. A Construction Certificate must be obtained **prior to the commencement of building work.**
- (17) Dial Before You Dig is a free national community service designed to prevent damage and disruption to the vast pipe and cable networks which provides Australia with the essential services we use everyday – electricity, gas, communication and water.

Before you dig call "Dial before you dig" on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no/name, side of street and the distance to the nearest cross street) or register on line at www.dialbeforeyoudig.com.au for underground utility services information for any excavation areas.

The Dial Before You Dig service is also designed to protect Australia's excavators. Whether you are a back yard renovator, an individual tradesmen or a professional excavator the potential for injury, personal liability and even death exists everyday. Obtaining accurate information about your work site significantly minimises these risks.

Reason: To ensure that essential services such as electricity, gas, communication and water are not affected by excavation or construction.

- (18) All building works being erected wholly within the boundaries of the property.
- (19) The floor of the wet areas being of a material impervious to moisture and graded and drained to the sewers of Sydney Water.
- (20) Safety glazing complying with B1.4 of the Building Code of Australia used in every glazed door or panel that is capable of being mistaken for a doorway or unimpeded path of travel. The glazing must comply with Australian Standard AS 1288–2006: Glass in Buildings - Selection and Installation. Details of the method of complying with this requirement must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate.**
- (21) Framed panels or doors enclosing or partially enclosing a shower or bath shall be glazed with "A" or "B" grade safety glazing material in accordance with Australian Standard AS 1288-2006, Table 4.5 SAA Glass Installation Code (Human Impact Considerations) and B1.4 of the Building Code of Australia. Details of the method of complying with this requirement must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate.**
- (22) Treatment for the protection of the building from subterranean termites must be carried out in accordance with Australian Standard AS 3660.1-2000 "Termite management - New building Work."

If the method of protection is to be by way of a chemical barrier, it becomes the responsibility of the owner to maintain a suitable maintenance procedure in accordance with the manufacturer's requirements. Such responsibility is placed solely upon the owner.

After treatment the following is to be carried out:-

- a. A durable notice must be permanently fixed to the building in a prominent location, such as the meter box, indicating:-
 - i. The method of protection.
 - ii. The date of installation of the system.
 - iii. Where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label.
 - iv. The installer's or manufacturer's recommendation for the scope and frequency of future inspection for termite activity.
- b. Provide the Principal Certifying Authority with a Certificate which verifies that termite protection has been provided in accordance with Australian Standard AS 3660.1-2000. In the case of Reinforced Concrete Slab construction the Certificate is to verify that the protection incorporates both beneath slab (Part A) and slab penetrations (Part B) treatment.

Details showing compliance with this requirement must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate.**

(23) A registered surveyor's certificate being submitted to the Principal Certifying Authority as follows:-

- a. Before pouring of concrete slab on every level to indicate the height of the finished floor level and to show boundary clearances; and
- b. On completion of the buildings to indicate the height of the roof/parapet, show boundary clearances and areas of the site occupied by the building.

(24) Prior to the commencement of building work, the following is to be carried out:-

- a. Submit to Council a "Notice of Intention to Commence Building Work and Appointment of a Principal Certifying Authority" form. Council's 'Notice of Intention to Commence Building Work and Appointment of a Principal Certifying Authority' form is to be used where application is made to Council.
- b. Ensure detailed plans and specifications of the building are endorsed with a Construction Certificate by Council or an Accredited Certifier. Council's "Construction Certificate Application" form is to be used where application is made to Council. Copies are available on request.

(Vide Section 81A Environmental Planning & Assessment Amendment Act)

(25) A 'Section 73 Compliance Certificate' must be obtained from Sydney Water. Following application for a 'Section 73 Compliance Certificate' a 'Notice of Requirements' will be provided by Sydney Water.

The '*Notice of Requirements*' is to be obtained prior to the commencement of building work.

The Section 73 Certificate is to be submitted to the Principal Certifying Authority prior to the issuing of an Occupation Certificate.

- (26) Structural engineer's details prepared and certified by a practicing Structural Engineer for all reinforced concrete and structural members being submitted to the Principal Certifying Authority for approval **prior to the issuing of a Construction Certificate.**
- (27) The Structural Engineer is to also supervise the construction. A Certificate from the supervising Structural Engineer is to be submitted to the Principal Certifying Authority before an Occupation Certificate is issued stating that all reinforced concrete and/or structural members have been erected in accordance with his/her requirements and the relevant SAA Codes.
- (28) Fire Resistance Levels of all structural members, including external and internal walls, external and internal columns, ventilation, pipe and like shafts, floors and roofs shall comply with the requirements of Specification C1.1 of the Building Code of Australia. Details of the method of achieving this must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate.**
- (29) All materials used in the building must comply with early fire hazard criteria of Specification C1.10 and C1.10a of the Building Code of Australia.
- (30) Means of egress complying with Section D of the Building Code of Australia. Details of the method of achieving this must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate.**
- (31) Every exit so located that its use may otherwise be obstructed by the parking of vehicles being provided with two bollards or other suitable barrier, to provide a clear space of 1000mm wide leading to or from the exit door as required by Part D1.10 of the Building Code of Australia. Details of the method of achieving this must be noted on the plans **prior to the issuing of a Construction Certificate.**
- (32) Balcony balustrades are to comply with Part D2.16 of the Building Code of Australia. Details of the method of achieving this must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate.**
- (33) Continuous balustrades shall be provided along the side/s of any stairway or ramp, any corridor, hallway, balcony, access bridge or the like, any path of access to a building if:-
 - a. It is not bounded by a wall; and
 - b. The change in level is more than one (1) metre, or five (5) risers in the case of a stairway, from the floor or ground surface beneath;except where specific exemptions are provided in the Building Code of Australia.

Balustrades shall prevent as far as practicable:

- a. Children climbing over or through it; and
- b. Persons accidentally falling from the floor; and
- c. Objects which might strike a person at a lower level falling from the floor surface.

Balustrade heights and designs shall comply with Part D2.16 of the Building Code of Australia and Australian Standard AS 1170.1-2002. Height above nosings of stair treads, landing, corridors and the like shall generally be not less than 865mm, except in the case of particular building regulations.

Details of the method of satisfying these requirements must be noted on the plans or in the specifications **prior to the issuing of a Construction Certificate.**

- (34) A Fire Safety Certificate (copies available from Council) is to be given to the Certifying Authority prior to applying for an Occupation Certificate or Interim Occupation Certificate and thereafter once in every 12 month period an Annual Fire Safety Statement is to be given to Council. The certificate and statement attest to both the inspection of all essential fire safety measures by a properly qualified person and to the regular maintenance of the fire safety measures. A copy of the Fire Safety Certificate and the Fire Safety Schedule are to be given to the Commissioner of New South Wales Fire Brigades **by the building owner** and copies of these documents are to be prominently displayed in the building. Similarly copies of Annual Fire Safety Statements are also to be given to the Commissioner and displayed in the building.

(Vide clause 153 & Division 3 of the Environmental Planning & Assessment Regulation 2000)

(35) Engineering Design – Basement Excavation

The following engineering details or design documentation shall be submitted to the Principal Certifying Authority (Council or Accredited Certifier) **prior to the issuing of a Construction Certificate:**

- a. Documentary evidence prepared by a suitably qualified professional geotechnical engineer that confirms the suitability of the site for the proposed excavation and building, as well as certifying the suitability and adequacy of the proposed design and construction of the building for the site.
- b. A report shall be prepared by a professional engineer **prior to the issuing of a Construction Certificate**, detailing the proposed methods of excavation, shoring or pile construction including details of vibration emissions and detailing any possible damage which may occur to adjoining or nearby premises due to building and excavation works. Any practices or procedures specified in the engineer's report in relation to the avoidance or minimisation of structural damage to nearby premises, are to be fully complied with and incorporated into the plans and specifications for the Construction Certificate.

A copy of the engineer's report is to be submitted to Council, even if the Council is not the Principal Certifying Authority.

HEALTH

- (1) An Environmental Management Plan is to be submitted to Council with the Development Application detailing the control and management methods to be implemented during the excavation and construction phases of the project, such as:
 - Noise and vibration control.
 - Dust and odour suppression and control.
 - Storm water control and discharge.
 - Erosion control.
 - Waste storage and recycling control.
 - Litter control.
 - Construction material storage.
- (2) Mechanical ventilation and or air conditioning systems and equipment are to be designed and installed in locations that do not cause any noise nuisance or disturbance to near by residential or commercial premises. Details of the type of equipment locations and any noise attenuation treatment are to be submitted to Council for approval prior to the issue of the Construction Certificate.
- (3) The use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to "**offensive noise**" as defined under the provision of the Protection of the Environment Operation Act 1997. The sound level output shall not exceed 5 dB (A) above the ambient background level at the received boundary.
- (4) To ensure that adequate provision is made for ventilation of the building all mechanical and / or natural ventilation systems shall be designed, constructed and installed in accordance with the provisions of:
 - a. The Building Code of Australia,
 - b. AS 1668 Part 1 & 2 – 1991,
 - c. The Public Health Act – 1991
 - d. Public Health (Microbial Control) Regulation 2000,
 - e. Work Cover Authority,
 - f. AS 3666 –1989 Air Handling and water system of building microbial control

Part 1 - Design installation and commissioning
Part 2 - Operation and maintenance
Part 3 - Performance based maintenance of cooling water systems.

An application to register any regulated system installed must be made to Council prior to commissioning.

WASTE MANAGEMENT

- (1) Each of the units is to be provided with a waste cupboard or other storage area which is of sufficient size to hold a single day's waste and to enable source separation of general waste, recyclables and compostable materials.
- (2) All garbage and recyclable materials emanating from the premises must be stored in the designated waste storage areas. The waste storage areas must be:
 - a. Provided with a hose tap connected to the water supply;
 - b. Supplied with both **hot and cold** water;
 - c. Paved with impervious floor materials;
 - d. Coved at the intersection of the floor and the walls;
 - e. Graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (Sydney Water);
 - f. Adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the Protection of the Environment Operations Act 1997;

Note: There shall be suitable signage installed in each of the chute waste service rooms encouraging the separation of recyclables from the general waste stream.

- (3) The occupier of the premises is to enter an agreement with registered waste company or provider for the regular collection of all waste and recyclable material generated from the premises.
- (4) All waste and recyclables are to be collected from within the premises. Bins are not to be placed on Council footpaths for collection at any time.

ENGINEERING – STORMWATER

- (1) Stormwater runoff from all roof and paved surfaces shall be collected and discharged by means of a gravity pipe system to Council's drainage system located at Croydon Avenue.
- (2) A detailed drainage design shall be submitted to the Principal Certifying Authority.
 - a. The design and calculations shall indicate the details of the proposed method of stormwater disposal and shall be prepared by a competent practicing hydraulic/civil engineer in accordance with Council's Stormwater Management Code.
 - b. Allowance shall be made for surface runoff from adjacent properties, and to retain existing surface flow path systems through the site. Any redirection or treatment of these flows shall not adversely affect any other property.
 - c. Overflow paths shall be provided to allow for flows in excess of the capacity of the pipe/drainage system draining the site, as well as from any on-site stormwater detention storage.
 - d. The design is to be reviewed by Council or an Accredited Certifier - Civil Engineering. The Principal Certifying Authority is to be provided with a

Compliance Certificate verifying that this condition has been complied with, **prior to the issuing of a Construction Certificate.**

- (3) Details and calculations shall be prepared by a competent practicing hydraulic/civil engineer. They shall include:
- a. a catchment plan,
 - b. plans showing proposed and existing floor, ground and pavement levels to AHD,
 - c. details of pipelines/channels showing calculated flows, velocity, size, materials, grade, invert and surface levels,
 - d. details and dimensions of pits and drainage structures,
 - e. hydrologic and hydraulic calculations,
 - f. details of any services near to or affected by any proposed drainage line,
 - g. any calculations necessary to demonstrate the functioning of any proposed drainage facility is in accordance with Council's requirements.
 - h. The depth and location of any existing stormwater pipeline and/or channel being connected to shall be confirmed by the applicant on site. Certification of such is to be provided to Council prior to the release of the construction certificate.

The details and calculations are to be reviewed by Council or an Accredited Certifier - Civil Engineering. The Principal Certifying Authority is to be provided with a Compliance Certificate verifying that this condition has been complied with, **prior to the issuing of a Construction Certificate.**

- (4) On-site stormwater detention storage shall be provided in conjunction with the stormwater disposal system.
- a. This storage shall be designed by a competent practicing hydraulic/civil engineer in accordance with Council's Stormwater Management Code and submitted to the Principal Certifying Authority.
 - b. The design is to be reviewed by Council or an Accredited Certifier - Civil Engineering. The Principal Certifying Authority is to be provided with a Compliance Certificate verifying that this condition has been complied with, **prior to the issuing of a Construction Certificate.**
- (5) The stormwater works on the development property and connection to Council's stormwater system are to be inspected during construction by a competent practicing hydraulic/civil engineer. The inspections are to be carried out at the stages of construction listed in the following schedule. A compliance Certificate verifying that the construction is in accordance with the approved design, this development consent and satisfies the relevant Australian Standard is to be submitted to the Principal Certifying Authority before proceeding beyond the relevant stage of construction.

SCHEDULE OF CONSTRUCTION STAGES REQUIRING INSPECTION

- a. Following placement of pipe bedding material. Confirm trench/pipe location, adequacy of depth of cover, bedding material and depth.
 - b. Following joining of pipes and connection to Council's stormwater system.
 - c. For on-site detention systems:-
 - (i) Following set out of detention tank/area to confirm area and volume of storage.
 - (ii) Following placement of weep-holes, orifice and/or weir flow control, outlet screen and overflow provision.
 - d. Following backfilling. Confirm adequacy of backfilling material and compaction.
- (6) Following completion of all drainage works:-
- a. Works-as-executed plans, prepared and signed by a registered surveyor, shall be prepared. These plans shall include levels and location for all drainage structures and works, buildings (including floor levels) and finished ground and pavement surface levels. These plans are to be reviewed by the competent practicing hydraulic/civil engineer that inspected the works during construction.
 - b. The Principal Certifying Authority is to be provided with a Compliance Certificate from a competent practicing hydraulic/civil engineer. The Compliance Certificate shall state that all stormwater drainage and related work has been constructed in accordance with the approved plans and consent conditions as shown on the work-as-executed plans, prior to the issuing of an Occupation Certificate.
- (7) A Positive Covenant under section 88E of the Conveyancing Act shall be created on the title of the property(s) detailing the
- i) Overland surface flow path
 - ii) Finished pavement and ground levels
 - iii) Prevention of the erection of any structures or fencing
 - iv) On-site Stormwater Detention system
- incorporated in the development. The wording of the Instrument shall include but not be limited to the following:-
- a. The proprietor of the property agrees to be responsible for keeping clear and the maintenance of the facilities consisting of:-
 - i) The overland surface flow path
 - ii) Finished pavement and ground levels
 - iii) Prevention of the erection of any structures or fencing....
 - iv) On-site Stormwater Detention system

- b. The proprietor agree to have the facilities inspected annually by a competent practicing hydraulic/civil engineer.
- c. The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean repair and maintain in good working order the facilities in or upon the said land; and recover the costs of any such works from the proprietor.
- d. The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from failure of any component of the facilities.

The applicant shall bear all costs associated with the preparation of the 88E Instrument. The wording of the Instrument shall be submitted to, and approved by Council prior to lodgement at the Land Titles Office. Evidence that the Instrument has been registered at the Land Titles Office shall be submitted to Council, prior to issuing of an Occupational Certificate.

- (8) The northern boundary fences shall be constructed in materials that allow unobstructed passage of surface stormwater flows. Fencing details shall be submitted to Council or an Accredited Certifier - Civil Engineering. The Principal Certifying Authority is to be provided with a Compliance Certificate verifying that this condition has been complied with, **prior to the issuing of a Construction Certificate.**
- (9) The following conditions are in addition to the conditions marked on the pink referral to be address by the applicant **prior to issuing of the Construction Certificate.**
 - a. The plan shall indicate all the downpipes from the buildings and their connection to the drainage system.
 - b. Podium level (Level-2) drainage plan & detail has to be provided.
 - c. Total runoff from the entire roof and paved areas shall be routed through the On-Site Detention Tank (OSD)
 - d. Further details of the OSD in regards to its location, level etc are to be provided to ensure adequate accessibility for regular inspection and maintenance purpose.
 - e. PVC and HDPE pipes will not be permitted in load bearing situation.
 - f. The outflow control structure is to be designed to control variable outflow rate to ensure the full range of ARI protection occurs. This will require the OSD to incorporate a range of storage-discharge values for various ARIs.
 - g. An electronic copy of the design (model) and calculations shall be submitted to Council.
 - h. For purposes of quality control the consulting engineer shall be required to provide Council with a Certification Report of the stormwater design together with signed plans and calculation reports.

ENGINEERING – GENERAL

- (1) All activities and works external to the site, or that affect public roads, are to be carried out in accordance with Council's Code for Activities Affecting Roads.

- (2) A road-opening permit shall be obtained for all works carried out in public or Council controlled lands. Restoration of landscaping, roads and paths shall be carried out by Council at the applicant's expense in accordance with Council's restoration rates. The applicant or any contractors carrying out works in public or Council controlled lands shall have public liability insurance cover to the value of \$10 million, and shall provide proof of such cover to the Principal Certifying Authority prior to carrying out the works.
- (3) Spoil and building materials shall not be placed, stored or caused to fall within any public roadway or footpath. Waste containers shall be placed in accordance with Council's Code for Activities Affecting Roads. Contact Council for a list of approved skip bin suppliers.
- (4) The builder is to ensure footpaths and roads affected by construction works are kept safe and prevent any damage to Council property. The builder shall erect and maintain where necessary approved hoardings, barricades, warning signs and night warning lamps to ensure public safety. Pedestrian access across the footpath must be maintained at all times.
- (5) The following matters shall apply to the damage deposit listed in the Table of Fees:-
 - a. This deposit is refundable if no damage occurs. Any damage caused will be repaired at Council's restoration rates, at the applicant's expense. All or part of the deposit will be forfeited to cover damage to Council's property during the course of demolition and/or construction.
 - b. Council will only carry out two inspections of the Council's footpath, kerb and gutter, drainage system and roadway, prior to works commencing and at the completion of all work covered by this consent. Council is aware that damage may be caused by individual contractors that culminate in the damage inspected at Council's final inspection. The applicant is responsible for attributing any part of the damage to their individual contractors. Council will not refund any part of a damage deposit until the completion of the work covered by this consent.
- (6) The following matters apply to the construction of the proposed vehicular crossing.
 - a. Two vehicular crossings 7.5 m wide to Croydon Avenue and Brighton Street are to be constructed to Council's current Vehicular Crossing Policy and specifications at the applicant's cost. Where the applicant or their contractor wishes to carry out the construction, a Construction Permit must be obtained from Council and the related standard conditions and fees will apply.
 - b. The driveway shall be 1m clear of any pits, lintels, poles and 2m clear of trees in the road reserve.
 - c. All redundant vehicular crossings shall be removed and replaced with kerb and gutter and footpath at no cost to Council.
- (7) Internal driveway levels shall be designed and constructed to conform with existing footpath and road profiles such that vehicles are not damaged while

accessing the property. Council footpath and road profiles will not be altered for this purpose.

- (8) The applicant is to have prepared a longitudinal section of the proposed vehicular ramp access, drawn at 1:25 natural scale.
 - a. The longitudinal section shall be prepared by a competent practicing civil engineer in accordance with AS 2890.1.
 - b. The design is to be reviewed by Council or an Accredited Certifier - Civil Engineering. The Principal Certifying Authority is to be provided with a Compliance Certificate verifying that this condition has been complied with, prior to the issuing of a Construction Certificate.
- (9) Temporary measures shall be provided during demolition, excavation and/or construction to prevent sediment and polluted waters discharging from the site.
 - a. An erosion and sediment control plan showing such measures shall be prepared by a competent practicing hydraulic/civil engineer in accordance with Supplement 10 of Council's Stormwater Management Code.
 - b. The erosion and sediment control plan is to be reviewed by Council or an Accredited Certifier - Civil Engineering. The Principal Certifying Authority is to be provided with a Compliance Certificate verifying that this condition has been complied with, **prior to the issuing of a Construction Certificate.**
- (10) All demolition and excavation materials are to be removed from the site or disposed of on site using methods that comply with relevant environmental protection legislation.
- (11) Vehicles removing demolished materials from the site shall access and depart from the site through Croydon Avenue/Brighton Street and Liverpool Road. Vehicles involved in removing materials from the site shall be limited to an 8 tonne gross weight.

PUBLIC DOMAIN

- (1) The total estimated value of "streetscape" improvements works in accordance with Part 35 of Burwood Consolidated Development Control Plan (hereafter briefly referred as DCP 35), within the intent of the Public Works Elements Manual, on Brighton Street (street category -4) and Croydon Ave (street category -4) frontages is **\$150,000** as specified in Fee condition 5 as follows:
 - (i) Footpath Paving at Brighton St & Croydon Av frontages - (approx. 258m²)
 - (ii) New Vehicular Crossings and Layback – 2 Nos.
 - (iii) New kerb & gutter at Brighton St & Croydon Av frontages - (approx. 170 lm)
 - (iv) Asphalt repair (500mm wide) at gutter lip & layback - (approx. 187 lm)
 - (v) Nature strip, to lay and grow grass between kerb & footpath – (approx. 260m²)

The Applicant shall lodge with Council **a bond or bank guarantee satisfactory to Council in the amount of \$150,000** for the above streetscape improvement works to be undertaken and completed by his own qualified contractors following the guidelines in Councils Public Works Elements Manual and to Council Engineer's satisfaction, **prior to the issuing of a Construction Certificate and/or commencement of demolition/ excavation.**

- (2) The Applicant shall prepare detailed survey reports of all existing service authority assets in the property and at the street frontages (footpath) of the proposed development. Surveys should include, but not be limited to, electricity, water, stormwater, sewer, gas, telecommunications, street lighting and drainage assets, etc.
- (3) The Applicant shall liaise with all relevant service authorities to develop final designs that satisfy all requirements of the service authority providers in respect of protection, termination or relocation of existing assets. A written consent shall be required where a service authority asset will be affected.
- (4) The Applicant shall prepare detailed method statements to demonstrate how the proposed development is to be constructed such that all relevant utility authority assets are protected and maintained throughout the construction stage of the development, or are relocated.
- (5) Three copies of a detailed Public Domain Plan of both the Brighton Street and Croydon Ave frontages of the building including the footpath, driveways, kerb & gutter, nature strip etc. shall be prepared and certified by a qualified architect or landscape architect or urban designer and shall be submitted to Council for its records **prior to the issuing of a Construction Certificate.**
 - The Plan is to be drawn at 1:100 scales.
 - The plan shall show the entire layout, location, a long sections and cross sections including construction levels of the proposed footpath, vehicular crossing, street kerb & gutter and nature strips. The plan shall provide the type and materials of all the proposed public works elements. All the existing and proposed landscaping features e.g. trees, plants etc. including utility poles, service pits, proposed stormwater pits etc. shall be indicated on the plan.
 - The plan shall incorporate the standard specifications and details in accordance with DCP 35 and the Public Works Elements Manual and shall include technical specifications of the proposed works.

TRAFFIC

- (1) A minimum of 137 resident car spaces, 6 staff and 10 visitor spaces, 1 ambulance and 1 mini bus bay are to be provided.
- (2) Provision of convex mirrors at the basement car park entries to improve the angle of vision for residents.
- (3) All driveway ramp gradients are to comply with Burwood Council's DCP Pt. 22 – Car Parking.

- (4) The minimum head clearance for the basement and car spaces be 2.2m and with allowance for wheelchair (on car tops) headspace as per Australian Standards.
- (5) All visitor spaces, mini-bus bay and ambulance bay are to be clearly identified.
- (6) An intercom system be provided to allow visitors, tradesmen and delivery vehicles access to the parking adjacent to the driveway.
- (7) A Construction Traffic Management Plan is to be submitted to Council for approval, prior to the commencement of any work (including demolition works) on the site, to ensure public safety and to avoid any traffic congestion and delay. All construction vehicles are to access and egress the site from Croydon Avenue for delivery and removal of material.
- (8) All reasonable measures be incorporated into the design of the exits to parking areas to minimise headlight glare to residents on Croydon Avenue and Brighton Street located opposite car park exit points where such measures are required.
- (9) Traffic and speed counts to be undertaken on both Brighton Street and Croydon Avenue before and 6 months after the development is constructed and occupied. Pending analysis of the data, traffic calming devices be installed on both streets. An undertaking is to be provided to Council, should it be reasonably demonstrated these works are necessitated.
- (10) A parking review of Croydon Avenue and Brighton Street be undertaken once the development is in operation (6 months), to qualify on street parking by visitors and staff. An undertaking be provided to Council, should a parking scheme need to be developed for the area.
- (11) Construction gates and entry be provided off Croydon Avenue only in a safe location as per Council's requirements. There shall be no construction access to the site from Brighton Street.
- (12) The extension to the pool plant room at the northern end of the basement car park shall be re - located to allow for unrestricted 2 way vehicle access for vehicles using the aisles servicing the basement car park.

Attachments:

- 1. Submission by applicant's town planning consultant – 21Pages
- 2. DA Consent 279/2002 dated 10/12/2002 - 17 pages
- 3. Section 96 Modification to DA279/2002 dated 25/6/2004 -10 pages